

**Ordinary Council Meeting**

**Business Paper**

**Maclean - 26 March 2024 - 3:00 PM**





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Nil

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## 5. MAYORAL MINUTES

**ITEM 05.24.005 MAYORAL MINUTE  
IPART INQUIRY INTO DAM SAFETY LEVY**

<b>Meeting</b>	Council	26 March 2024
<b>Submitted by</b>	Cr Peter Johnstone	
<b>Attachments</b>	A. Dam Safety NSW correspondence re IPART appointment <a href="#">⇒</a> B. IPART Advice of consultation on Dam Safety Levy <a href="#">⇒</a> C. Report 6c.20.179 to the November 2020 meeting <a href="#">⇒</a> D. June 2021 Response to Council submission <a href="#">⇒</a>	

**SUMMARY**

On 19 January 2024 Dam Safety NSW advised Council (refer **Attachment A**) that the government has commissioned the Independent Pricing and Regulatory Tribunal (IPART) to recommend a clear, cost-effective methodology for the dam safety levy, emphasising the financial sustainability and efficiency of Dams Safety NSW.

**PROPOSED MOTION**

That Council make a submission to the IPART Dam Safety Levy Issues Paper reiterating the issues raised in its previous (November 2020) submission.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme Infrastructure

Objective We will have communities that are well serviced with appropriate infrastructure

**BACKGROUND**

IPART will determine the design, structure, and implementation options for a cost recovery model. The Dam Safety correspondence indicated IPART will consult with declared dam owners and report to the Government in 2024. IPART has been tasked to consider issues raised by stakeholders during consultation in 2020 to explore funding and levy design options.

On 19 March 2024 IPART wrote to Council (refer **Attachment B**) advising that they had released an issues paper on the proposed Dam Safety Levy which is open for consultation until 16 April 2024. The issues paper can be downloaded from [https://www.ipart.nsw.gov.au/sites/default/files/cm9\\_documents/Issues-Paper-Designing-a-levy-for-regulating-dam-safety-in-NSW-19-March-2024.PDF](https://www.ipart.nsw.gov.au/sites/default/files/cm9_documents/Issues-Paper-Designing-a-levy-for-regulating-dam-safety-in-NSW-19-March-2024.PDF). The issues paper indicates that in calculating the quantum of the levy payable by each type of dam, IPART will consider:

- How best to apportion fixed and variable costs to types of dam owners based on a range of factors such as the size, consequence category, purpose or number of dams that they own.
- Affordability, including the potential impact of the levy on smaller dam owners and local government.
- The ability for dam owners to recover these costs from relevant customers or communities serviced by the dam.
- Whether there is a need for ongoing government funding for dams that provide services to the broader community.
- Implementation issues including how the levy could be phased-in over time.

The first four dot points were addressed in Council's November 2020 submission to the original dam safety levy proposal. As all the issues in that submission are still relevant to the IPART issues paper, it is recommended Council make a submission to IPART based on its previous November 2020 submission. At its November 2020 meeting Council endorsed a submission to Dam Safety NSW opposing a proposed dam safety levy (Resolution 6c.20.179 – refer **Attachment C**). A response from Dam Safety NSW was received in June 2021 indicating that the then Minister had decided that introducing a Dam Safety Levy at that time was not considered appropriate (refer **Attachment D**).

**6. NOTICES OF MOTION****ITEM 06.24.005 NOTICE OF MOTION  
QUESTION REGARDING STAFF TURNOVER**

<b>Meeting</b>	Council	26 March 2024
<b>Submitted by</b>	Cr Debrah Novak	
<b>Attachments</b>	Nil	

To the General Manager, Clarence Valley Council, I propose that the following report and notice of motion be submitted to Council.

**SUMMARY**

Section 3.14 of the Code of Meeting Practice allows councillors to request information about the performance or operations of the council.

**PROPOSED MOTION**

That Council informs community how Clarence Valley Council staff turnover rates in recent years compare to those of other councils.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme Leadership

Objective We will have a strong, accountable and representative Government

**BACKGROUND**

Speculation exists that suggests that staff turnover at Clarence Valley Council is significant and attributed to the General Manager, with a representative for the applicant in the recent NCAT Hearing (Yamba CAN Inc v Clarence Valley Council) claiming:

“...she is aware of commentary in the community that former staff are taking work at Coffs Harbour Council and other workplaces in the Coffs Harbour area rather than working for the respondent because of its the low morale. Any statements from former staff that they prefer to work in the Coffs Harbour area is a serious concern to those who wish to see the Clarence Valley as a healthy and cohesive community.”

[Yamba CAN Inc v Clarence Valley Council - NSW Caselaw](#)

**COUNCIL IMPLICATIONS****Budget/Financial**

The information sought is already available to community through annual Workforce Management Plans. A small amount of staff time is required to compile data to satisfy the request.

**Asset Management**

Nil

**Policy and Legislation**

Nil

**Consultation**

Nil

**Legal and Risk Management**

Nil

**Climate Change**

Nil

**GENERAL MANAGER COMMENT**

General Manager

In November 2022, LGNSW reported that 96% of respondent councils to the NSW *Local Government Workforce Skills and Capability Survey* experience an unplanned staff turnover of between 1-27% with an additional 1-4% termination due to retirement at 30 June 2022 (accessed online [2022 Local Government Workforce Skills and Capability Survey \(lgnsw.org.au\)](https://www.lgnsw.org.au) 14 March 2023).

The NSW Auditor General's Report to Parliament – Local Government 2023 is not yet available. However, generally speaking the Auditor does not make comment on staff turnover in the sector unless in response to specific councils. In 2022, the NSW Auditor's Report mentions the impact of significant staff turnover in the 2020/2021 financial year affecting Narrabri Shire Council and Kiama Municipal Council (accessed online <https://www.audit.nsw.gov.au/our-work/reports/local-government-2022> 14 March 2024).

Data gathered from current Workforce Management Plans and consultation with neighbouring councils indicates, Clarence Valley Council is not experiencing staff turnover any greater than that of other as neighbouring councils.

Clarence Valley Council's staff turnover as at 30 December 2023 was 12% and at 14 March 2024 was 14%.

On any given day, staff turnover is calculated across the prior 365 days per below formula provided by the Australian Human Resource Institute, and therefore can change daily. For this reason, council's generally report either the prior calendar or financial year to provide comparative data across years in Workforce Management Plans.

$$\text{Annual Turnover Rate \%} = \frac{\text{Number of employees who left}}{(\text{Beginning} + \text{ending number of employees}) / 2} \times 100$$

The following data for 2022/2024 where available, has been provided by adjoining councils and also through a review of various Group 4 Council's Workforce Management Strategies available online:

Ballina Shire: 13% at June 2022 and 18% at June 2023.  
 Coffs Harbour: 16.3% at June 2022 and 24% at February 2024.  
 Richmond Valley: 15% pre Covid and ≥20% through Covid, with a decline now being reported.  
 Byron Shire: 15% at June 2022 and 16.4% at June 2023.  
 Lismore City: 15.2% at February 2024.  
 Tweed: 12.34% at December 2022 and 12.15% at December 2023.  
 Armidale Regional: 16.2% at June 2022.  
 Tamworth: 15.7% at June 2022.

The staff movement data released to Yamba Can via GIPA2023/0008 and which is now circulating in community is raw data at a point in time. It does not include staff turnover (calculated using formula above):

Staff turnover on dates identified as the end period of the data provided in the GIPA2023/0008 were as follows:

11 May 2022 was 15.72% and  
 12 May 2023 was 15.44%

As beginning and end number of employees were not included on GIPA2023/0008, any public comment on staff turnover is speculation.

Most council's compare against either the LG Professionals PWC or the LGNSW HR Metrics staff turnover benchmark at 30 June, which is shown in the following with a comparison for Clarence Valley Council.

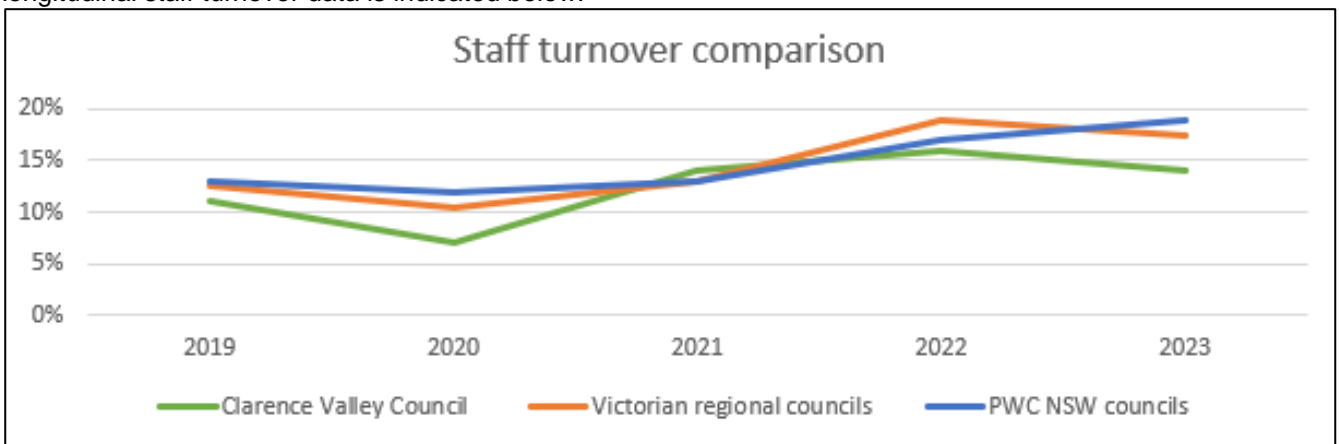
	2018/2019	2019/2020	2020/2021	2021/2022	2022/2023
PWC Local Government Benchmark	13%	12%	13%	17%	19%
LGNSW HR Metrics					19.77% (regional) 18.22% (NSW)
CVC	11%	7%	14%	16%	14%

On 10 March 2024, *Government News Australia* (accessed online [Staff turnover at Vic councils still higher than pre-pandemic - Government News](#) 14 March 2024) reported a section of the Victoria Auditor General Andrew Greaves summary of audits of the Victorian local government sector, which indicates that staff turnover in Victorian councils remains higher than pre pandemic.

“In 2022–23 the sector continued to experience staff turnover at a rate higher than pre-pandemic levels due to a competitive labour market. The sector’s average staff turnover was 18 per cent in 2022–23. This was down from 20 per cent in 2021–22, but it is still higher than the 14 per cent that occurred in 2018–19. All council cohorts, except for small shire councils, experienced a slight decline in staff turnover, as Figure 2 shows. Small shire councils had a turnover rate of 22 per cent, which is higher than the sector average. For the past 5 years, small councils have experienced staff turnover at a rate above the sector average.”

(Results of 2022-2023 Audits: local Government March 2024 (accessed online [Results of 2022–23 Audits: Local Government | Victorian Auditor-General's Office](#) 14 March 2024).

A comparison of Clarence Valley Council to Victorian regional council and PWC Local Government longitudinal staff turnover data is indicated below:



This data, much of which is publicly available indicates Clarence Valley Council is not experiencing comparatively high staff turnover nor has it in recent years and further that staff turnover has been declining since June 2022, contrary to public comment and industry trends.



## 7. REPORTS

### OFFICE OF THE GENERAL MANAGER

#### ITEM 07.24.026 MACLEAN COURT HOUSE

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	General Manager	
<b>Prepared by</b>	General Manager, Laura Black	
<b>Reviewed by</b>	General Manager, Laura Black	
<b>Attachments</b>	Nil	

### SUMMARY

This report tables notes from the meeting held between in the General Manager and the Attorney General's Department's Director Hunter North and Site Manager Coffs Hub regarding reduced hours at Maclean Court House.

#### OFFICER RECOMMENDATION

That Council note the report.

### LINKAGE TO OUR COMMUNITY PLAN

Theme Leadership

Objective We will have a strong, accountable and representative Government

### KEY ISSUES

The following matters were discussed at the meeting held in February 2024:

- There was general consultation undertaken prior to a reduction in hours and advices through the Court User Forum, which the solicitor who raised the matter with you is a member of.
- Confirmed that the Site Manager has discussed with the lawyer who raised the matter with you, but that there were no specific issues raised that AGD could address.
- Services were reduced (registrar availability), some have ceased when transferred to other agencies and centralised through phone line options.
- Decision to reduce hours was based on declining Court House usage data in prior years and hastened as services were provided in alternate ways.
- Statistics of referral from Maclean to Grafton continue to be monitored and have not changed significantly since reduced hours at Maclean.
- Attorney General's Department has no plans to change operations at Maclean.
- Maclean is part of the Coffs Harbour Hub, which includes courts at Taree, Forster, Port Macquarie, Kempsey, Macksville, Coffs Harbour, Grafton and Maclean. Maclean has its own Registrar, and they report to the Senior Manager, Coffs Harbour Hub. This Hub falls into the Hunter North Region of Court Services.

**BACKGROUND**

At the Ordinary Meeting of Council held December 2023, the following was resolved:

**COUNCIL RESOLUTION - 06.23.017**

**Novak/Tiley**

**That Council advocate to the NSW Attorney General Michael Daley for the reopening of the Maclean Court House to its previous 5 day per week**

**Voting recorded as follows**

**For: Clancy, Day, Johnstone, Novak, Pickering, Smith, Tiley, Toms, Whites**

**Against: Nil**

**CARRIED**

The Attorney General's parliamentary Secretary's response was tabled for information at the February 2024 Ordinary Meeting advising of the proposed meeting.

**COUNCIL IMPLICATIONS****Budget/Financial**

N/A

**Asset Management**

N/A

**Policy and Regulation**

N/A

**Consultation**

N/A

**Legal and Risk Management**

N/A

**Climate Change**

N/A

## ENVIRONMENT &amp; PLANNING

**ITEM 07.24.027 MOD2023/0082 - MODIFICATION TO DA2014/0098 SHERIDANS HARD ROCK QUARRY - APPROVAL TO RELOCATE OFFICE BUILDINGS, AMEND OFFICE HOURS AND INSTALL A WEIGHBRIDGE**

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	Environment & Planning	
<b>Prepared by</b>	Senior Development Planner, Patrick Ridgway	
<b>Reviewed by</b>	Director Environment & Planning, Adam Cameron	
<b>Attachments</b>	A. S.4.55 Assessment Report (Separate Cover) <a href="#">⇒</a> B. Plans Showing Proposed Office and Amenities <a href="#">⇒</a> C. Statement of Environmental Effects (Separate Cover) <a href="#">⇒</a> D. EPA Modification Comments CNR-59531 <a href="#">⇒</a> E. Amended Notice of Determination DA2014-0098 by MOD2016-0035 + MOD2020-0039 + MOD2022-0045 + MOD2022-0124	

## SUMMARY

<i>Applicant</i>	Gary Peacock, Outline Planning Consultants Pty Ltd
<i>Owner</i>	Matsid Pty Ltd
<i>Address</i>	242 Faheys and Bulgins Road Hernani, Lot 62 and 63 in DP752807
<i>Submissions</i>	Nil

Council is in receipt of a fifth Section 4.55(2) modification application (MOD2023/0082) to modify DA2014/0098 for Sheridans Hard Rock Quarry at Hernani. MOD2023/0083 was received on 16 August 2023 to relocate office buildings, amend office hours and install a weighbridge.

At its February meeting, Council resolved to defer consideration of MOD2023/0082 to the following meeting to allow staff to contact the applicant regarding the conditions. Comments regarding this are provided in the issues section of this report.

The installation of the weighbridge has been required by the NSW Environmental Protection Authority's (EPA) Environmental Protection Licence. Council's records do not show that the existing fuel storage tanks, office and amenities buildings have obtained development approval in the past, however these buildings can be considered ancillary to the quarry operations and conditioned accordingly in the modification application.

No other increases in output or activities at the quarry are proposed under the modification. In accordance with Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (the EP&A Act), it is submitted that the modified development is substantially the same as the approved development and will have a satisfactory (and minor) environmental impact. The modification application was notified and advertised in accordance with our Community Participation Plan, as well as notifying persons who previously made a submission, and no submissions were received.

The original approval for the quarry was approved by the Northern Regional Planning Panel. This modification application is not required to be reported back to the Panel (as per the panel's operational procedures). This report is submitted to Council to consider, provides an assessment of the application and a recommendation for Council consideration.

## OFFICER RECOMMENDATION

That Council:

1. accept the Section 4.55(2) modification application, being MOD2023/0082, as being substantially the same development as approved under DA2014/0098.
2. approve MOD2023/0082 subject to the Draft Modified Conditions contained in Schedule 1.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme Environment

Objective We will foster a balance between sustainable development and the environment considering climate change impacts

**KEY ISSUES**

**1. Site Description**

Sheridans Hard Rock Quarry at 242 Faheys and Bulgins Road Hernani, Lot 62 and 63 in DP752807 is zoned RU1 Primary Production under the *Clarence Valley Local Environmental Plan 2011* (the LEP) and identified as “Drinking Water Catchment” on the Drinking Water Catchment Map. The approved quarry route is approximately 10.3km long over Faheys and Bulgin Road, Cornells Road and Bald Hills Road to the intersection of Bald Hills Road and Waterfall Way. Quarry traffic can then either go west towards Armidale or east to Dorrigo, Bellingen and to the Pacific Highway. The maintenance of the haul route is under a maintenance agreement through a Voluntary Planning Agreement approved by Council in 2018.

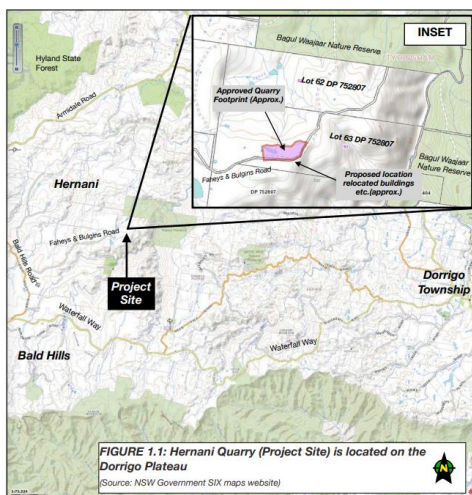


FIGURE 1.1: Hernani Quarry (Project Site) is located on the Dorrigo Plateau  
(Source: NSW Government SIX maps website)

PHOTOGRAPH 2: Drone survey view of the overall quarry, including administrative offices, parking and fuel storage facilities and approx. position of relocated facilities  
(Source: Sheridans Hard Rock Quarry drone photograph)

Figures 1 and 2: Site location and drone aerial view (Source: Statement of Environmental Effects)

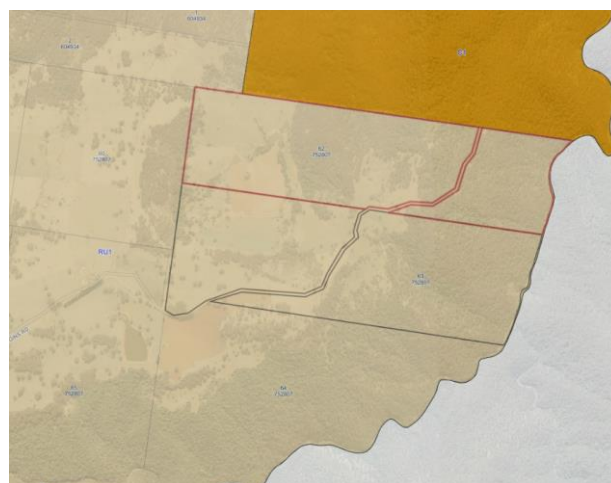


Figure 3: LEP Zoning Map

**2. Proposed Development and summary of previous approvals**

DA2014/0098 was approved by the Joint Regional Planning Panel – Northern (JRPP) on 21 August 2014 subject to conditions of consent limiting the annual extraction rate to 73,600m<sup>3</sup> and a maximum of 20 daily laden vehicles. Council’s Section 4.55(2) assessment is provided as **Attachment A**. There have been four (4)

previous modifications to the consent following its original approval and the history of the quarry is summarised in **Table 1** below:

**Table 1: History of Sheridans Hard Rock Quarry**

Application	Description	Approval Date	Area	Resource
DA2014/0098	<p><i>Expansion of Extraction Industry</i></p> <p>The consent allowed for the extraction of 73,600 cubic metres (about 198,000 tonnes) per annum and a limit of 20 loaded trucks per day. All quarry activities were required to be located within the same 5.73ha footprint area.</p>	10/09/14	5.73ha	Expand the size of the resource available for extraction from 1.6 million tonnes approx. to a total of 4.8 million tonnes approx.) Ref. SEE March 2014
MOD2016/0035	<p><i>Increase permitted daily truck numbers</i></p> <p>The consent, as modified, allows up to 66 loaded quarry trucks on any one weekday and a maximum of 36 loaded trucks on Saturdays to travel along the approved haul route. It is noted that Council agreed to enter into a Voluntary Planning Agreement (VPA) at its meeting on 8 May 2018 Item 14.048/18 for maintenance of the haul route by the quarry operator.</p>	1/11/18	No change to area	No change
MOD2020/0039	<p><i>Modification of DA2014/0098 – increase extraction rate</i></p> <p>Allowing an increase in the rate of extraction at the quarry, from 73,600 cubic metres (about 198,000 tonnes) to 148,000 cubic metres (about 398,000 tonnes). No change to loaded trucks per day</p>	3/03/21	No change to area	No change
MOD2022/0045	<p><i>Expansion of extractive industry and revised staging</i></p> <p>Allowing for a 1.95ha western extension to the approved quarry footprint. Approval granted by Council at its meeting held on 27 September 2022.</p>	12/10/22	7.68ha	The existing extraction area of 5.73 ha had an estimated remaining resource of less than 3.8 million tonnes of basalt. The modification enables access to be gained to an additional 1.5



				million tonnes of quarry resource (SEE May 2022)
MOD2022/0124	Allowing for the importation, storing, blending and sales of Virgin Excavated Natural Material (VENM), Excavated Natural Material (ENM), and reclaimed asphalt pavement from road works and infrastructure projects with existing quarry products produced at the Sheridans Hard Rock Quarry at Hernani, the blended product intended for beneficial re-use in road works	10/3/23	No change to area	No Change
MOD2023/0082	Modification to relocate office buildings, amend office hours and install a weighbridge	Not determined	No change to area	No change

The proposed layout of the office and buildings is provided below and are include in **Attachment B**.

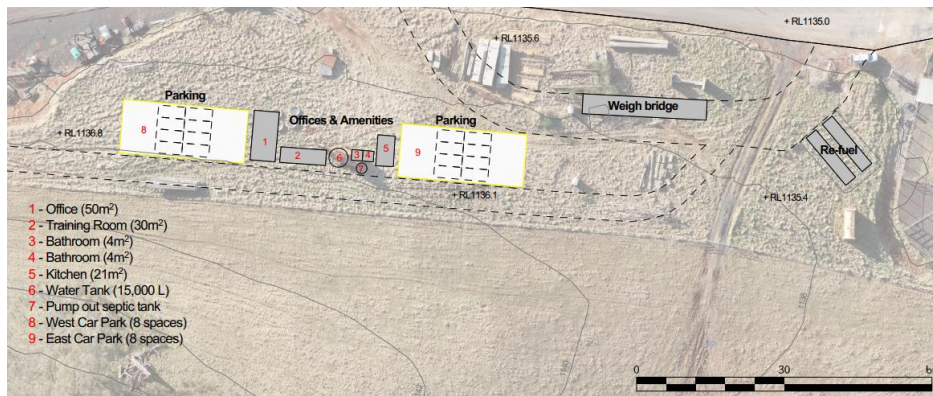


Figure 4: Plan showing layout of proposed office and amenities



PHOTOGRAPH 3: Existing quarry office



PHOTOGRAPH 4: Existing quarry training room



PHOTOGRAPH 5: Existing quarry lunch room



PHOTOGRAPH 5: Existing quarry amenities

Figure 4: Office, training room, lunch room & amenities

### 3. Summary of proposed modification

As described by the applicant the modification is for the:

- *Relocation of existing quarry office, staff amenities, other structures, fuel storage tanks, access and car park out of the pathway of the approved quarry extraction area and relocation to a site in close proximity to and overlooking the active quarry pit. This will enable quarrying to continue in a westerly direction and enable full extraction of the quarry resource from the first, upper level of the quarry, enabling quarrying to then proceed to the next, lower quarry bench level.*
- *This s.4.55 modification also seeks an extension to the hours of operation of the quarry administration buildings, to enable the use of these buildings to occur one hour prior to the commencement of quarrying activities on site [6.00am to 6.00pm Monday to Friday and 6.00am to 1.00pm Saturdays].*
- *A new weigh-bridge is also proposed, to accord with EPA requirements for the weighing of all quarry trucks carrying processed material being transported off site as well as waste material the subject of the most recent s.4.55 modification approval issued by Council on 10 March 2023.*

### 4. Substantially the same development - Modification to quarry operations

Under Section 4.55(2) of the EP&A Act, Council has the power to approve the modification application subject to the consent authority being satisfied that the development is substantially the same development for which consent was originally granted, and before that original consent was modified.

The applicant has addressed this requirement in the Statement of Environmental Effects submitted with the application (**Attachment C**). The applicant submits the proposed modification is substantially the same as the original development approval for the following reasons:

#### Quantitative Differences

- *The proposed modification does not alter the size of the approved quarry development. No increase is sought in terms of quarry extraction area or overall approved footprint. No additional extraction area or expansion of the approved quarry footprint or depth of extraction is sought in this modification application. A new quarry weigh-bridge is proposed.*
- *This modification seeks no change in truck numbers associated with the quarry.*
- *This modification seeks a change in the approved hours of operation of the quarry administration offices, but not the quarry.*
- *The proposed modification will not give rise to the need for additional volumes of water needed for quarry-related purposes. The quarry facilities will be provided with their own source of water, from water tanks of up to 100,000 litres capacity. [NOTE: Water storage tanks with a capacity of 100,000 litres or less is Exempt Development pursuant to the provisions of clause 2.14(2)(a) of State Environmental Planning Policy (Resources and Energy) 2021].*
- *The proposed modification will not give rise to the need for further sediment and erosion controls.*

#### Qualitative Differences

- *The proposed modification does not change the purpose or type of development being carried out, namely, for a quarry. The changes proposed do not materially change the development or the essence of the approved quarry development, including method of quarrying, method of processing of material or hours of operation.*
- *The proposed quarry development, as modified, makes use of land which is already approved for quarry purposes. Currently, the existing quarry administration buildings and structures stand in the way of the progressive westward expansion of the approved quarry.*
- *No further clearing or lateral expansion of the quarry is proposed.*
- *No change is proposed to the approved haul route over which quarry truck traffic is currently permitted to travel*
- *The proposed development will not result in the loss of amenity or significant visual impact as a result of the nature of the proposed lateral extension of the quarry. The quarry resources will be won from the same approved quarry area.*

- *Stormwater from within the quarry can be adequately accommodated by existing sediment basin capacity, without detriment to downstream catchments.*
- *The environmental impacts as previously assessed remain substantially the same and are capable of meeting relevant environmental criteria as a result of the revised modification. From the above, and for the additional reasons set out below, the proposed modification is considered to be 'substantially the same' as the originally approved development and not a 'radical transformation' from Development Consent DA2014/0098. Therefore, by its nature, the modification proposed for Hernani Quarry will result in a quarry development that is 'substantially the same' as the development for which consent was originally granted, thus satisfying the requirements in Section 4.55(2) of the EP&A Act.*

No other increases in output or increase activities at the quarry are proposed under the modification. In accordance with Section 4.55(2) of the EP&A Act, it is submitted that the modified development is considered to be substantially the same as the approved development and will have a satisfactory (and minor) environmental impact subject to compliance with the draft amended conditions contained in Schedule 1.

## 5. Agency referrals - Environmental Protection Authority

The quarry operates under an Environmental Protection License issued by the NSW Environmental Protection Authority (the EPA). MOD2022/0124 has been referred to the EPA, which have provided comment that there is no objection to the Integrated Development Application modification (**Attachment D**) and has recommended the following condition and recommendations:

*Within 30 days of installing the weighbridge, the applicant must submit to the EPA a plan of the premises indicating the proposed vehicle flow controls, including entry and exit points where waste is transported in and out of the Premises (a vehicle control plan).*

Council officers sought confirmation from the EPA on the proposed modification regarding:

- The re-fuelling area, service bay and amenities with On-site wastewater management (OSWM) and that no consent has been granted to these improvements in the past and needed to consider these matters in its assessment and determination.
- EPA requirements or advice about the proposed self-bunded fuel tanks, regarding if the installation needs to comply with AS1940 and the EPA's practice note managing runoff from service station forecourts.
- EPA approach to manage the OSWM requirements on an EPA licenced site. Council's OSWM Strategy does not support pump out systems.
- The submitted information mentions that there is no contamination on site. The aerial photos seem to show some ground staining in the vicinity of the two (2) side-by-side above ground fuel storage tanks, the vehicle servicing area and the AST in the quarry pit.
- The property is located within the drinking water catchment area mapped under the Clarence Valley and there are specific requirements for these areas under the *Clarence Valley Local Environmental Plan 2011*.
- Details on how the weighbridge operations should be included in the consent conditions.

Council was provided with the following response from the EPA:

- *Its not necessary to provide the EPA with additional information on the fuel storage tanks. We have sufficient information on the tanks from our own inspections undertaken at the quarry.*
- *The fuel storage tanks need to comply with the broad provisions of AS1940, but the quarry operator does not have to specifically comply with the petrol station forecourt provisions. These forecourt requirements are only required by petrol station operators.*
- *Given the OSWM system will be on the EPA licensed premises, while not specifically conditioning its management in the Environment Protection Licence (EPL) for the quarry, the EPA will be responsible for ensuring the OSWM system is maintained in a manner to avoid environmental risks.*
- *The discolouration appears to be surface staining from hydrocarbon (diesel/oil) spillage. If Council has the ability, the EPA suggest requiring the proponent to put in a bunded concrete refuelling pad, with capture sump, to enable the capture and containment of any diesel spills. If the AST in the pit is going to be a permanent arrangement then it should also have a concrete refuelling pad installed to capture diesel spills. These provisions will likely assist/mitigate any risks in the drinking water catchment.*



- *Operation details for the weighbridge should be included in the consent, in particular, at least once a year verifying the weighbridge as per the Commonwealth National Measurement Act 1960 to ensure its accuracy and reliability and any weighbridge operator training requirements are met.*
- *When operators install a weighbridge at their facility, they also typically purchase a related software system for recording and reporting. It is essential to commission this software successfully to accurately record and report waste information. It is suggested the Council may also wish to condition the consent to require the proponent to submit confirmation of the weighbridge commissioning to the EPA and Council and to provide to the EPA and Council written confirmation of the annual weighbridge calibration results.*

Additional conditions have been included in the draft conditions to address the concerns by Council staff and recommendations of the EPA. In particular, the draft conditions address concerns about operation of the fuels tanks to ensure any potential spillage is captured and managed within the drinking water catchment mapped area.

## **6. Draft conditions of consent**

When determining a modification application, the consent authority can impose new conditions as well as amend existing conditions. The limits of the discretion to do so are defined by the matters raised for consideration by the modification application. Any new conditions or changes to existing conditions must relate to the specific subject-matter and nature of the modification sought. Draft Conditions have been provided in Schedule 1.

At the 27 February 2024 Council meeting deputations were made by Gary Peacock (consultant) and Graham Sheridan (A director of MATSID Pty Ltd, the owner of the land) in regard to the draft conditions of consent.

A written deputation was also provided by Gary Peacock dated 20 February 2024 (**Attachment F**) in which it was stated that 'it is unfortunate that Council's town planner did not liaise with us...prior to tabling the draft conditions...'. It is noted the written deputation was not provided to Council's assessing officers before the 27 February 2024 Council meeting.

In regard to this, a list of the draft conditions was provided to the applicant on 12 February 2024 and a copy of the full report with the draft conditions was provided on the 21 February 2024. The applicant has had more than sufficient time to have been able to contact staff to discuss any issues prior to the February Council meeting. This is the normal timeframe provided to all applicants prior to a Council meeting.

Comments and minor amendments regarding the draft conditions and in response to the deputation made by the applicant are provided below:

### **Condition 1**

The wording of condition 1 has been amended as requested by the applicant and is reflected in the draft conditions.

### **Condition 47**

The applicant is claiming that due to the office buildings being identified in a previous Statement of Environmental Effects that they have been endorsed by Council. The previous approval that the applicant has referred to was for a modification to the quarry under MOD2022/0045 - for the expansion of extractive industry and revised staging. The proposal did not specifically refer to nor include these buildings in that modification application and accordingly they remain as being unapproved buildings on the site. Furthermore, they are now being relocated as sought under this application.

Notably, Council has not asked for a full set of architectural plans nor specific details of the construction materials. Anchoring and tie down requirements are normally applied to any relocatable pre-fabricated buildings. Council could otherwise be at fault if it approved the buildings and not require that they were installed with the appropriate anchoring and tie down requirements in accordance with the National Construction Code. The imposition of the condition is not considered to be overly onerous nor unreasonable and is in fact a necessary requirement. The reference to providing '...Structural Engineer's design for all footings, floor slabs, concrete walls, columns, roof and stairs has been removed in recognition of that the buildings are pre-fabricated. Otherwise, the condition is not recommended to be amended or deleted.

**Condition 49**

The quarry operator is able to construct and maintain parking facilities for the quarry operation as exempt development under Clause 2.13 of State Environmental Planning Policy (Resources and Energy) 2021. The parking will be for the quarry staff and there is sufficient room for the applicant to provide parking and manoeuvring. The condition has been deleted from the draft conditions.

**Conditions 51 – 55**

The fuel tanks that are proposed to be relocated have not been previously approved for the quarry. They are therefore considered to be new fixtures. The fuel tanks do not properly address concerns about spillage nor management of drinking water catchment impacts. To be clear, the subject site, and proposed location of the fuel tanks, is located in proximity to the Nymboida River and tributaries. It is considered imperative that this drinking water catchment is appropriately protected from environmental harm.

While the fuel tanks are self bunded, the bunded areas that are being required are to capture potential spills from the tanker that refuels these tanks and vehicles refuelling adjacent to the tanks. By capturing these spills in a covered bunded concrete apron near the fuel tanks it will reduce the potential for petrochemicals and hydrocarbons to enter the environment during the life of the quarry operation. This is an important requirement in this location, being within the mapped drinking water catchment of the LEP. As per Clause 7.7 of the LEP:

*Consent must not be granted to the carrying out of development on land to which this clause applies unless the consent authority—*

- (a) has taken into consideration whether there will be any adverse impact on drinking water quality and flows having regard to the following—*
  - (i) whether there is sufficient distance between the proposed development and waterways that feed into the water supply catchment,*
  - (ii) the on-site use, storage and disposal of any chemicals on the development site,*
  - (iii) the treatment, storage and disposal of wastewater and solid waste generated or used on the development site,*
  - (iv) any other potential adverse impacts on the water quality and quantity within the catchments, and*
- (b) is satisfied that—*
  - (i) the development is designed, sited and will be managed to avoid any adverse impact on water quality and flows, or*
  - (ii) if that impact cannot be avoided, after having taken into consideration feasible alternatives, the development is designed, sited and will be managed to minimise that impact, or*
  - (iii) if that impact cannot be minimised, the development will be managed to mitigate that impact.*

Furthermore, the EPA have commented that:

*If Council has the ability, the EPA suggest requiring the proponent to put in a bunded concrete refuelling pad, with capture sump, to enable the capture and containment of any diesel spills.... These provisions will likely assist/mitigate any risks in the drinking water catchment.*

These standards are normally applied to similar developments and the operation of the quarry should not be any different. Council has applied this standard to the installation of refuelling facilities on truck depots and other industrial uses that are not service stations.

Given that the EPA has not raised an issue with the types of above ground fuel tanks at the site and agreement that they are to comply with AS1940-2017, the requirement to provide certification documentation has been removed. The conditions are otherwise not recommended to be amended or deleted.

**Condition 56**

The applicant has raised concern about the non- requirement for a Section 68 *Local Government Act 1993* approval for an On-Site Waste Water Management System (OSWM). This was not going to be required as the OSWM system will be on the EPA licensed premises, and the EPA advised that the EPA will be responsible for ensuring the OSWM system is maintained in a manner to avoid environmental risks. Despite the EPA managing the OSWM system once operational, Council remains the consent authority under Section 68 to grant approval to install an OSWM.

To address this the following amendment to draft condition 56 is proposed.

56. The proponent to obtain the necessary approval pursuant to the provisions of sections 68 and 68A of the Local Government Act 1993 in the event that an on-site sewage disposal facility is proposed.

An On-Site Wastewater Management Application shall be submitted to Council via the NSW Planning Portal and approved by Council prior to the use of the amenities and office facilities. The system shall be designed in accordance with Council's On-site Wastewater Strategy 2019.

#### **Conditions 57 to 60**

The approval for the weighbridge will be approved under the *Environmental Planning and Assessment Act 1979* to install the structure on the quarry site and not the *Protection of the Environment Operations Act 1997* (POEO Act) as applied for under the modification application.

The draft conditions reflect the recommendations of the EPA who have required the weighbridge as part of their licence arrangement and requested that Council incorporate these as conditions of consent. This is a best practice approach. It is recommended that Council be party to future record keeping of the weighbridge operation, in addition to the EPA, to ensure that Council can monitor compliance of the quarry operation and maintain records of the quarry.

The conditions are not recommended to be amended or deleted.

#### **BACKGROUND**

DA2014/0098 was approved by the Joint Regional Planning Panel – Northern (JRPP) on 21 August 2014 subject to conditions of consent limiting the annual extraction rate to 73,600m<sup>3</sup> and a maximum of 20 daily laden vehicles. There have been four (4) previous modifications to the consent following its original approval and the history of the quarry is summarised in **Table 1** above. The consent as modified is provided as **Attachment E**.

The quarry is a NSW Environmental Protection Authority (NSW EPA) licenced quarry, meaning the NSW EPA regulates the environmental impacts of the quarry.

The development consent required the surrender of the previous approval for an extractive industry on the land, DA2010/0358, prior to consent taking effect. DA2010/0358 was surrendered by letter dated 15 September 2016.

#### **COUNCIL IMPLICATIONS**

##### **Budget/Financial**

There are no additional financial implications for Council should the consent be modified. Council will continue to receive a quarry maintenance payment in addition to the maintenance agreement under the VPA.

##### **Asset Management**

The applicant is responsible for the on-going future maintenance of the haul route in accordance with the existing conditions of consent and VPA.

##### **Policy and Regulation**

Environmental Planning and Assessment Act, 1979  
 Environmental Planning and Assessment Regulation 2000  
 State Environmental Planning Policy (Resources and Energy) 2021  
 State Environmental Planning Policy (Planning Systems) 2021  
 State Environmental Planning Policy (Transport and Infrastructure) 2021  
 Clarence Valley Local Environmental Plan 2011  
 Rural Zones Development Control Plan (DCP)

##### **Consultation**

The modification application was referred to the NSW Environmental Protection Authority (NSW EPA) No objections were received from the NSW EPA to the proposal. The NSW EPA has recommend a condition that for the modification that is included as a draft condition. The following sections of Council were consulted during the assessment of the application:

<i>Internal Section or Position</i>	<i>Comment</i>
Environmental Officer	No objection with conditions
Trade Waste Officer	No objection with conditions
Development Engineer	Satisfied that traffic impacts will be minor
Building Surveyor	No objection with conditions

### Legal and Risk Management

Should the applicant be dissatisfied with Council's determination of the modification application, they may appeal to the Land and Environment Court. Prior to any appeal submitted through the Court the applicant can also seek a review of Council's determination in accordance with the provisions of the Environmental Planning and Assessment Act 1979.

### Climate Change

The proposed modification is not considered to conflict with Council's Climate Change Policy. The ongoing use of the quarry and ancillary facilities will not result in significant increases in emissions associated with operation of the quarry.

### Schedule 1 Draft Conditions

The development consent DA2014/0098 (as modified), approved by the Joint Regional Planning Panel – Northern (JRPP) on 21 August 2014 is to be modified under Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* as follows:

By adding after the 5th dot point in Consent Condition 1 of DA2014/0098, being the approved documents and plans, the following:

- “The Statement of Environmental Effects prepared by Outline Planning Consultants entitled s.4.55(2) Modification Application: Proposed Relocation of Quarry Administrative Buildings and Allied Structures, Parking and Access & New Weigh-bridge, Amended Hours of Operation for Quarry Administrative Buildings Sheridans Hard Rock Quarry Pty Ltd, Hernani Quarry Pt. Lot 62 & 63 in DP 752807, No.242 Faheys & Bulgins Road, Hernani, NSW, and dated August 2023
- Plans showing proposed office and amenities relocation at Sheridan's Hard Rock Quarry, 242 Faheys & Bulgins Rd Hernani, 2463, Drawn by Abbey Richards, Dated 01/08/2023.

or where modified by any conditions of consent Modified by MOD2016/0035 on 26/10/2018 & MOD2022/0045 on 4 October 2022, MOD2022/0124 on 10 March 2023 **and MOD2023!**.....

Inserting the following conditions:

47. The following information is to be submitted to Council prior to use of the office/administration complex:
  - a A compliance certificate or other form of documentary evidence from a practising Structural Engineer confirming the satisfactory fabrication and holding down requirement of the portal frames.
  - b A compliance certificate or other form of documentary evidence from a Structural Engineer to certify that the building complies with the requirements of the NSW Specification B1.3 of the Building Code of Australia.
  - c Details for wind bracing and tie down for the building.
48. All excavations and back filling associated with the installation, erection and demolition of a building must be executed safely and in accordance with appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.
- 49.. The hours of operation of the quarry office/administration buildings are:
  - 6.00am to 6.00pm Monday to Friday and 6.00am to 1.00pm Saturdays.

50. Prior to use of the above ground fuel storage tanks, the above ground fuel storage tanks, fill points and re-fuelling areas shall be contained in roofed and bunded areas with a containment tank. The roof shall overhang the perimeter of the bunded area by no less than 10 degrees from vertical on all open sides to minimise rainwater ingress. The bund shall have the capacity to retain at least 110% of the volume of the largest storage container in the bund.
- The containment tanks for the above ground fuel storage tanks shall have available reserve capacity of the greater of either; 9000L or the capacity of the largest compartment of a delivery tanker delivering fuel to the site. They shall also have extra capacity to manage rainwater ingress. The containment tanks shall have a high level audible and visual alarm fitted to alert when pump out is required to ensure the available reserve capacity is maintained.
51. Prior to use of the above ground fuel storage tanks, certification shall be provided to Council from the tank manufacturer prior to issuing the Occupation Certificate that the above ground fuel storage tanks are designed in accordance with AS1692 Steel tanks for flammable and combustible liquids.
52. The above ground fuel storage tanks are to comply with AS1940-2017 - The storage and handling of flammable and combustible liquids.
54. Any spills or wastewater captured in the bunded area containment tanks is not permitted to discharge to the environment. They shall be disposed of at a facility lawfully able to accept the waste.
55. Receipts for disposal of the contents of containment tanks shall be kept and made available to the NSW EPA and Council upon their request.
56. The proponent to obtain the necessary approval pursuant to the provisions of sections 68 and 68A of the Local Government Act 1993 in the event that an on-site sewage disposal facility is proposed.  
*An On-Site Wastewater Management Application shall be submitted to Council via the NSW Planning Portal and approved by Council prior to the use of the amenities and office facilities. The system shall be designed in accordance with Council's On-site Wastewater Strategy 2019.*
57. Within 30 days of installing the weighbridge, the applicant must submit to the EPA and to Council a plan of the premises indicating the proposed vehicle flow controls, including entry and exit points where waste is transported in and out of the Premises (a vehicle control plan).
58. The quarry operator is to provide certification to Council that the weighbridge has been installed in accordance with the manufacturer's specifications prior to commencement of use.
59. Operation details for the weighbridge are to be provided to the EPA and Council prior to commencement of operation.
60. A written confirmation report of the annual weighbridge calibration results, to ensure the weighbridge will operate as per the *Commonwealth National Measurement Act 1960*, is to be submitted to the EPA and Council each year to ensure its accuracy and reliability and any weighbridge operator training requirements are met.

## ITEM 07.24.028 PUBLIC HEARING REPORT - PLANNING PROPOSAL REZ2023/0002 TO RECLASSIFY LAND CONSISTING WATER INFRASTRUCTURE AT NYMBOIDA AND LAWRENCE TO OPERATIONAL LAND

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	Environment & Planning	
<b>Prepared by</b>	Strategic Planner, Jasmine Oakes	
<b>Reviewed by</b>	Director Environment & Planning, Adam Cameron	
<b>Attachments</b>	A. Public Hearing Report - REZ2023-0002 (Separate Cover) <a href="#">⇒</a> B. Planning Proposal - REZ2023-0002 (Separate Cover) <a href="#">⇒</a>	

### SUMMARY

This report provides a summary of a verbal submission and responses by Council staff made at a public hearing regarding the reclassification of five (5) land parcels consisting of water supply infrastructure located at Nymboida and Lawrence to 'operational'; and recommendation for the development of a Management Plan to guide future management and maintenance of the Nymboida Power Station site.

The Public Hearing Report provides a full record of the submission, which is included as **Attachment A**. The Planning Proposal provides further detail regarding the reclassification, which is included as **Attachment B**.

### OFFICER RECOMMENDATION

That Council:

- note one (1) verbal submission was received during the public hearing, which did not object to the reclassification of the five (5) land parcels to 'operational' land, as detailed within the Public Hearing Report (**Attachment A**).
- note that the draft 2024/2025 Operational Plan will include a project for the preparation of a Management Plan for the Nymboida Power Station site (Lot 102 DP1277848).
- finalise the amendment to the *Clarence Valley Local Environmental Plan 2011* to:
  - Reclassify the following five (5) land parcels as 'operational' land:
    - Lot 21 DP1269753 located at 66 High Street, Lawrence;
    - Lot 102 DP1277848 located at 1 Power Station Road, Nymboida; and
    - Lots 7, 17 and 63 DP752836 located at 107 Glens Creek Road, Nymboida;
  - Rezone Lot 21 DP1269753 and Lot 1 DP567494 located at 66 High Street, Lawrence from R2 Low Density Residential to SP2 Infrastructure.

### LINKAGE TO OUR COMMUNITY PLAN

Theme Infrastructure

Objective We will have communities that are well serviced with appropriate infrastructure

### KEY ISSUES

#### Public Hearing

Locale Consulting facilitated a public hearing on behalf of Council, held 5.30pm on 21 February 2024 at the Grafton Council Chambers, regarding the proposed reclassification of Council-owned land parcels consisting of the following water supply infrastructure from "community" to "operational" via an amendment to Schedule 4 of the *Clarence Valley Local Environmental Plan 2011* (CVLEP):

- Lot 21 DP1269753 located at 66 High Street, Lawrence
- Lot 102 DP1277848 located at 1 Power Station Road, Nymboida
- Lots 7, 17 and 63 DP752836 located at 107 Glens Creek Road, Nymboida

One (1) person attended the Public Hearing and made a verbal submission regarding the proposed reclassification of Lot 102 DP1277848 located at 1 Power Station Road, Nymboida (site 2) and Lots 7, 17 and 63 DP752836 located at 107 Glens Creek Road, Nymboida (site 3).



Submission Summary - Site 2: Nymboida Power Station

Lyle Gilmore, the submitter owns a property which adjoins the site. He travels back and forth between this property and his primary residence in Forster. He is also a member of the Nymboida Camping and Canoe Centre. Lyle does not object to the land being reclassified to “operational” however raised the following concerns regarding ongoing use of the Nymboida Power Station land:

- There is a ‘trail race’ that runs from the Power Station through to the Nymboida Camping and Canoe Centre, which is known as Goolang Creek. A walking track traverses this ‘creek’ which Lyle and members of the Centre regularly maintain;
- Lyle also maintains a park located within site 2, which is named after his father - Gordon Gilmore Park;
- Lyle would like open public access to the park and the walking track to remain into the future;
- Suggests Council implement a volunteer program similar to the Mid Coast Council, whereby allowing the community to mow and maintain the site while being covered by Council’ public liability insurance;
- Lyle does not want to burden the Camping and Canoe Centre with additional obligations and responsibility for maintaining the park and walking track under a lease or management arrangement;
- The Power Station is turning 100 years old this year, with the anniversary on 25 November 2024;
- The Power Station has heritage value and Lyle would like to see this being accessed for tourism in the future, and ensure that the heritage significance of building is appropriately management and maintained so it doesn’t deteriorate.

In response, Council Water Cycle and Strategic Planning staff noted:

- It is unlikely that a fence will be erected by Council to prevent public access to the park and the walking track;
- The following options may be available to maintain public access and enable Lyle and / or the Camping and Canoe Centre to continued access and enable ongoing maintenance of the track and the park:
  - A lease or licence
  - Section 355 arrangement
  - Volunteer arrangement
- Council is currently maintaining the Power Station building so it will not deteriorate; and
- Council has no long-term management plans for the site yet, however this will be addressed moving forward (See ‘Asset Management’ section of this report for recommendation for the preparation of a Management Plan to address these concerns).

Submission Summary - Site 3: Nymboida Weir

Lyle Gilmore suggests that this land parcel next to the weir presents a great opportunity to provide public access directly to the river, as there are currently no public access points to the river in Nymboida.

In response, Council Water Cycle staff noted:

- Unfettered public access to the Weir and river area is not possible due to the risk to the water security and supply.
- Council will be developing a management plan for the future use of this site that includes investigating options such as repairing the vandalised cottage and leasing it to a caretaker or building a solar farm. No cattle would be allowed on the site due to impacts on water supply quality.

In accordance with the Public Hearing Report (**Attachment A**) prepared by Locale Consulting:

- the public hearing and public exhibition process have revealed no reason as to why the reclassification should not proceed; and
- the hearing process has identified that there is a need to resolve the future use of the Power Station site, in particular public access and the maintenance of the walking track and Gordon Gilmore Park (Site 2).

The officer recommendation to Council aligns with these findings, noting the approach outlined in the ‘Asset Management’ section of this report.

**BACKGROUND**

Council resolved (item 07.23.136) at their meeting held Tuesday 22 August 2023:

*That Council:*

1. *endorse planning proposal REZ2023/0002 to amend Schedule 4 of the Clarence Valley Local Environmental Plan 2011 (CVLEP) to reclassify the following land parcels from ‘community’ to ‘operational’ land:*
  - (a) *Lot 21 DP1269753 located at 66 High Street, Lawrence;*
  - (b) *Lot 102 DP1277848 located at 1 Power Station Road, Nymboida;*

- (c) Lots 7, 17 and 63 DP752836 located at 107 Glens Creek Road, Nymboida; and
  - (d) To rezone Lot 21 DP1269753 and Lot 1 DP567494 located at 66 High Street, Lawrence from R2 Low Density Residential to SP2 Infrastructure.
2. delegate authority to the General Manager to:
    - (a) Execute all documentation associated with the local plan making functions;
    - (b) Submit the planning proposal to the Department of Planning and Environment seeking a
    - (c) Gateway determination; and
    - (d) Seek to be the local plan-making authority.
  3. in the event that a Gateway determination is issued, publicly exhibit the planning proposal and engage an independent consultant to undertake a public hearing in accordance with legislative requirements, notifying Council's intention to reclassify the five (5) land parcels.
  4. subject to no submissions or objections being received that require further consideration by Council:
    - (a) Finalise the CVLEP to reclassify the five (5) land parcels as 'operational' land; and
    - (b) Finalise the CVLEP to rezone the two (2) land parcels to SP2 Infrastructure.
  5. note that if submissions are received that require further consideration of Council, this will be reported to the next available Council meeting after submissions close.

## COUNCIL IMPLICATIONS

### Budget/Financial

Preparation of the planning proposal and coordination of the public exhibition process on Council's Website was undertaken within Council's Strategic Planning team operational budget.

The Public Hearing budget of \$3,000 was funded by the Water Fund Reserve.

### Asset Management

The land has been included in Council's Water Cycle Assets register and future management and maintenance schedules.

### Nymboida Power Station Management Plan

It is recommended that a Management Plan be prepared for the Nymboida Power Station site to ensure ongoing management considers the heritage significance and tourism potential of the Power Station and associated infrastructure; and options for the ongoing access and use of the walking trail and Gordon Gilmore Park by the Nymboida Camping and Canoe Centre, its members (inc. Lyle Gilmore) and visitors to the Centre is explored, whether by a lease or licence, section 355 delegation or voluntary arrangement.

This recommendation will be progressed in draft 2024/2025 Operational Plan, which will include a project for preparation of a Management Plan for the Nymboida Power Station site (Lot 102 DP1277848). It is intended the project will be resourced from the Water Fund Reserve.

### Policy and Regulation

*Local Government Act 1993*

*Environmental Planning and Assessment Act 1979*

*Environmental Planning and Assessment Regulation 2021*

*Clarence Valley Local Environmental Plan 2011*

*Clarence Valley Council Community Participation Plan 2022*

### Consultation

Internal consultation occurred between the Strategic Planning and Water Cycle sections, during the drafting of the planning proposal and in preparation for the public hearing.

### Planning Proposal

The Planning Proposal (**Attachment B**) was publicly exhibited on Council's On-exhibition webpage for a minimum 28 days from 13 October 2023 to 10 November 2023; and advertised on Noticeboard on 13 October, 20 October, 27 October and 3 November 2023.

No submissions were received by the community during the exhibition period.

The Gateway determination identified the need to consult with the NSW Rural Fire Service (RFS). The NSW RFS letter dated Monday 11 December 2023 raised no concerns or objections to the proposed reclassification or rezoning in relation to bushfire.



### Public Hearing

Public notice of the Public Hearing regarding the land reclassification was published on Council's "Latest News" webpage on Friday 26 January until close of business Wednesday 21 February 2024.

Notice was also made via Council's Noticeboard Enews on Friday 26 January, 9 February and 16 February 2024; and an article placed in the Clarence Valley Independent Newspaper on 31 January 2024.

The Public hearing was held 5.30pm on 21 February 2024 at the Grafton Council Chambers. One (1) person attended the Public Hearing and made a verbal submission, as detailed in the key issues section of this report and within the Public Hearing Report (**Attachment A**). The Public Hearing Report was made public on Council's "Latest News" Webpage on Thursday 7 March 2024, in compliance with the requirements of section 47G of the *Local Government Act 1993*.

Council staff from Water Cycle and Strategic Planning sections were present at the public hearing to respond to concerns raised by the speaker.

### **Legal and Risk Management**

The purchase and management of Lots 7, 17 and 63 DP752836 as operational land reduces potential water quality risks associated with the drinking water supply and ensures Council has access to the weir pool to undertake maintenance and to facilitate construction of a fish ladder at the weir.

The Public Hearing Report has been made available for public inspection on Council's webpage within four (4) days of receiving the report from the independent public hearing facilitator, in compliance with section 47G(3) of the *Local Government Act 1993*.

### **Climate Change**

Reclassifying the five (5) land parcels to 'operational' land enables Council's effective operational management of their water supply infrastructure to ensure the ongoing security of the Clarence Valley and Coffs Harbour LGA water supply.

In addition, allowing unfettered public access to Lots 7, 17 and 63 DP752836 as per the 'community' land classification, may lead to potential environmental impacts from land uses associated with this type of land classification which is generally considered to be openly accessible for recreational based uses. Reclassifying these land parcels to 'operational' land enables council to manage public access and land use appropriate to maintain water quality for the security of Council's drinking water.

## ITEM 07.24.029 PUBLIC HEARING REPORT - PLANNING PROPOSAL REZ2023/0003 TO RECLASSIFY LOT 1 AND 2 DP1270948, LOCATED 300 POWELL STREET TO 'OPERATIONAL' LAND

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	Environment & Planning	
<b>Prepared by</b>	Strategic Planner, Jasmine Oakes	
<b>Reviewed by</b>	Director Environment & Planning, Adam Cameron	
<b>Attachments</b>	A. Public Hearing Report - REZ2023-0003 <a href="#">⇒</a> B. Planning Proposal - REZ2023-0003 <a href="#">⇒</a>	

### SUMMARY

This report provides a summary of a verbal submission made at a public hearing regarding the reclassification of Lot 1 and 2 DP1270948 located at 300 Powell Street, Grafton to “operational” land. The reclassification when finalised will enable consolidation of Lot 1 and 2 DP1270948 with the adjoining Lot 21 DP712604 to rectify the encroachment of the sports complex building and transfer ownership to the Police Citizens Youth Club (PCYC) that currently manage the facility.

The Public Hearing Report provides a full record of the submission, which is included as **Attachment A**. The Planning Proposal provides further detail regarding the reclassification, which is included as **Attachment B**.

### OFFICER RECOMMENDATION

That Council:

- note one (1) verbal submission was received from the secretary of the Grafton Ghosts Football Club during the public hearing, who did not object to the reclassification of Lot 1 and 2 DP1270948 located at 300 Powell Street, Grafton to “operational” land.
- finalise the amendment to the *Clarence Valley Local Environmental Plan 2011* to reclassify Lot 1 and 2 DP1270948 as ‘operational’ land to facilitate the consolidation of Lots 1 and 2 DP1270948 with Lot 21 DP712604 as previously resolved (refer Item 07.22.279).

### LINKAGE TO OUR COMMUNITY PLAN

Theme Infrastructure

Objective We will have communities that are well serviced with appropriate infrastructure

### KEY ISSUES

In accordance with the Public Hearing Report (**Attachment A**) prepared by Locale Consulting:

- the public hearing and public exhibition process have revealed no reason as to why the reclassification should not proceed; and
- the hearing process has identified that there is a need to resolve the future tenure arrangements of the Grafton Ghosts over the Reserve given some of its facilities are located on the land to be reclassified, and that this should occur before transfer to the PCYC.

In regard to dot point one, it is recommended that Council finalise the amendment to the *Clarence Valley Local Environmental Plan 2011* (CVLEP) to reclassify Lot 1 and 2 DP1270948 from “community” to “operational” land.

In regard to dot point 2, Council resolved at its meeting of 15 May 2018 (Item 13.002/18), in part, that:

- Council in-principle agree to the transfer of the Grafton Sports Complex and surrounding land comprising Lot 22 DP712604, 288 Powell Street, Grafton (sic\*) to the ownership of the Police Citizens Youth Club (PCYC) on the conditions that there is:*
  - ....
  - Completion of negotiations by PCYC with the Grafton Ghosts - Senior and Junior Leagues, and NSW Crown Lands which may involve the PCYC becoming trustee of the toilets/change rooms on the side of the basketball complex as these are on Crown Lands.*

Council's Open Spaces staff advise that they are aware that a formal agreement was initiated between the PCYC and the Grafton Ghosts in January 2020, however they do not hold a record of the finalised document. Other enquiries undertaken have also failed to locate or ascertain a formal agreement between the PCYC and the Grafton Ghosts.

Noting the scope of this business paper is limited to the proposed reclassification of land, the intent of the Council resolution of the 15 May 2018 (Item 13.002/18) should be honoured prior to the transfer of the Grafton Sporting Complex and the surrounding land to the PCYC. Completion of this outstanding action will resolve the concern of the submitter and the recommendation of the Public Hearing Report.

*\* It is noted that the Lot/DP details and the address of the Grafton Sports Complex was incorrectly described in the Council report of 15 May 2018. The correct details are Lot 21 DP 712604, 300 Powell Street, Grafton.*

## BACKGROUND

Council resolved at its meeting held Tuesday 13 December 2022 (Item 07.22.279):

*That Council:*

1. *Authorise and allocate funds for the preparation of a planning proposal under section 3.33 of the Environmental Planning and Assessment Act 1979 to amend Schedule 4 of the Clarence Valley Local Environmental Plan 2011 (CVLEP) to reclassify Lot 1 and 2 DP1270948 from 'community' to 'operational' land and to secure an independent consultant to undertake a public hearing into the reclassification;*
2. *Delegate authority to the General Manager to:*
  - (a) *Execute all documentation associated with the local plan making functions;*
  - (b) *Submit the planning proposal to the Department of Planning and Environment seeking a Gateway determination;*
  - (c) *Seek to be the local plan-making authority;*
3. *In the event a Gateway determination is issued, publicly exhibit the planning proposal and engage an independent consultant to undertake a public hearing in accordance with legislative requirements, notifying Council intention to reclassify the land;*
4. *Subject to no submissions or objections being received requiring further consideration by Council:*
  - (a) *Finalise the CVLEP to reclassify the land as 'operational' land;*
  - (b) *Finalise consolidation of the lots with Lot 21 DP712604; and*
  - (c) *Transfer ownership of the resultant new land parcel to the Police Citizens Youth Club (PCYC) Grafton*
5. *Note that in the event submissions or objections regarding the reclassification are received during the hearing and exhibition process, a report will be brought back to Council for further consideration; and*
6. *Note that the contract for sale includes a clause to ensure that if PCYC Grafton opt to dissolve ownership of the facility it will return to Council ownership.*

Further details regarding the background of the acquisition and transfer of Lots 1 and 2 DP1270948 can be reviewed in the Council Business Paper (Item 07.22.279) of meeting held Tuesday 13 December 2022.

Locale Consulting facilitated a public hearing on behalf of Council as per the requirements of the *Local Government Act 1993* and the Council resolution detailed above. The public hearing was held 6.30pm on 21 February 2024 at the Grafton Council Chambers.

One (1) person attended the Public Hearing on behalf of the Grafton Ghosts Rugby League Football Club (the Club) and made a verbal submission regarding the proposed reclassification. A summary of the submission is provided below.

### Submission Summary

Michelle Gilbert, the submitter in her capacity as secretary to the Grafton Ghosts, stated that the Club does not object to the land being reclassified "operational" and sold to the PCYC, however there is concern regarding security of tenure for the Club into the future with no formal agreement in place. Some of the issues raised at the hearing include:

- Frank McGuren Park (Crown Reserve 95853) has been used as the Grafton Ghosts home ground for many years, with the majority of improvements (grandstands, canteen, bar, dressing sheds and toilets) being located on the land which has been subdivided from the reserve (Lots 1 and 2 DP1270948), to be reclassified, which is known as “no mans land” as it has always been unclear as to who is responsible for it;
- The Club has recently spent around \$20,000 to upgrade the dressing shed on this land, which the PCYC has started a gym over top which has negative impacts on the Club's use;
- There is also no formal agreement regarding the use of Frank McGuren Park playing fields, which causes lack of clarity about who is ultimately responsible for maintenance and costs;
- The Club currently pays for electricity and maintains the fields (fertilises, mows, waters), however OOSH Community Services (a local provider of after hours school care for children) were seen to use the fields after the Club had placed fertiliser on the fields, which became a safety concern as there was a 2 week withholding period specified for the application;
- Grafton Ghosts would like a written agreement from the PCYC that gives certainty to the continued use of facilities (grandstands, canteen, bar, dressing sheds and toilets) located on Lots 1 and 2 DP1270948 and Frank McGuren Park sporting fields, prior to the transfer of ownership to the PCYC.

## COUNCIL IMPLICATIONS

### Budget/Financial

Preparation of the planning proposal and coordination of the public exhibition process on Council's website was undertaken within Council's Strategic Planning operational budget.

The Public Hearing budget of \$3,000 was costed to FP 995005 – Property management from RA10520 Strategic Building Reserve, in accordance with Council report from 30 March 2021 detailing the acquisition of the property.

### Asset Management

Council currently leases the former Grafton Sports Centre (Lot 21 DP712604) to the PCYC until the property transfer is finalised. The PCYC is fully responsible for the maintenance and upkeep of the asset.

The reclassification of the property (Lot 1 and 2 DP1270948) to 'operational' land will enable the property to be consolidated with the adjoining Lot 21 DP712604 (which was classified as 'operational' by the former Grafton City Council on the 28 June 1996 [GG, Issue No.77, p3542]) to facilitate the transfer of the sporting complex asset to PCYC ownership. In the event that PCYC Grafton opt to dissolve ownership of the facility it will return to Council ownership.

### Policy and Regulation

*Local Government Act 1993*

*Environmental Planning and Assessment Act 1979*

*Environmental Planning and Assessment Regulation 2021*

*Clarence Valley Local Environmental Plan 2011*

*Clarence Valley Council Community Participation Plan 2022*

### Consultation

Internal consultation occurred between Strategic Planning staff and Council's Property officers about the land reclassification process and legal requirements, during the drafting of the planning proposal and in preparation for the public hearing.

### Planning Proposal

The Planning Proposal (**Attachment B**) was submitted to the former Department of Planning and Environment on 9 November 2023. The Gateway determination was issued on 4 December 2023 specifying a minimum 28 day public exhibition period and a six-month timeframe to complete the CVLEP. No consultation with public authorities or government agencies was required in the condition of the Gateway determination.

The Planning Proposal was publicly exhibited on Council's On-exhibition webpage for a minimum 28 days, from 15 December 2023 until 29 January (which was extended for three weeks due to the exhibition period concurrent with the Christmas holidays). Notice of the exhibition was also made via Council's Noticeboard eNews on 15 December, 22 December 29 December 2023, 5 January, 12 January and 19 January 2024.

No submissions were received by the community during the exhibition period.

Public Hearing

Public notice of the Public Hearing regarding the land reclassification was published on Council's "Latest News" webpage on Friday 26 January until close of business Wednesday 21 February 2024.

Notice was also made via Council's Noticeboard eNews on Friday 26 January, 9 February and 16 February 2024; and an article placed in the Clarence Valley Independent Newspaper on 31 January 2024.

The Public Hearing was held 6.30pm on 21 February 2024 at the Grafton Council Chambers. One (1) person attended the hearing and made a verbal submission, as detailed in the key issues section of this report and within the Public Hearing Report (**Attachment A**). The Public Hearing Report was made public on Council's "Latest News" Webpage on Thursday 7 March 2024, in compliance with the requirements of section 47G of the *Local Government Act 1993*.

Council staff from the Strategic Planning section were present at the public hearing to respond to concerns raised by the speaker.

**Legal and Risk Management**

Council has entered into a contract of sale with PCYC Grafton for the transfer of ownership of the property, however this cannot be executed until the reclassification of Lot 1 and 2 DP1270948 as 'operational' land is finalised.

All public reserve status and interests of Lot 1 and 2 DP1270948 were discharged during the agreed compulsory acquisition process from NSW Crown Lands to Council.

**Climate Change**

N/A

**ITEM 07.24.030 REMOVAL OF THE FORMER GORMAN'S RESTAURANT ON HICKEY ISLAND, YAMBA**

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	Environment & Planning	
<b>Prepared by</b>	Senior Strategic Planner (Public Land/Native Title), Dr Danny Parkin	
<b>Reviewed by</b>	Director Environment & Planning, Adam Cameron	
<b>Attachments</b>	A. Location of Former Gormans Restaurant, Hickey Island, Yamba <a href="#">⇒</a> B. EPA Order - Gormans Restaurant, Swell 77 Pty Ltd (Confidential)	

**SUMMARY**

This report outlines the current situation in regard to the removal of the former Gorman's Restaurant on Hickey Island, Yamba (**Attachment A**).

**OFFICER RECOMMENDATION**

That Council:

1. write to the Member for Clarence, the Hon. Richie Williamson MP seeking his support and advocacy of the State Government for a process to allow the demolition and removal of the former Gorman's restaurant on Hickey Island.
2. write to the Minister for Lands and Property, the Hon. Steve Kamper MP requesting that the State government engage with the Yaegl Traditional Owners Aboriginal Corporation RNTBC and their legal representatives to agree on a process to resolve the current need to demolish the former Gorman's Restaurant for public health and safety reasons and to secure long-term legal access for Swell 77 to access their property.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme Economy

Objective We will have an attractive and diverse environment for business, tourism and industry

**KEY ISSUES**

Council served Swell 77 Pty Ltd, as owner of Lot 186 DP 47046, Harbour Street YAMBA an Order issued under Division 9.3 and Schedule 5 of the *Environmental Planning and Assessment Act 1979* to demolish the two storey Gorman's restaurant building on the land amongst other matters on the 19 October 2023 because of its dilapidated condition (refer Confidential **Attachment B**). This Order was served after Council had issued a Notice on 25 September 2023 notifying of Council's intention to serve the Order.

As part of the Order, the consent of the Department of Planning, Housing & Infrastructure's Crown Land & Public Spaces section (Crown Lands), as owner of Lot 7307 DP 1147276 (being part R85724 aka Flinders Park) and Lot 7319 DP 1162093 (being part R1003009 aka Hickey Island) was required to traverse these Lot/DPs and to install any temporary structures on these lands as part of the demolition works, prior to any work commencing.

The Order required compliance by 18 December 2023. The Order cannot be actioned due to Crown Lands inability to grant landowner's consent.

Council was advised by Crown Lands on the 4 March 2024 that they are unable to issue landowner's consent due to the complexities of native title on the lands adjoining the former Gorman's restaurant and the lack of a native title pathway under the Future Act provisions of the *Native Title Act 1993* (Cth), other than through an ILUA (Indigenous Land Use Agreement).

Crown Lands has suggest to the owner of the land that they should approach Yaegl TOAC directly with the view of entering into an ILUA to be able to traverse the surrounding Crown land so that they may carryout the demolition works. Any ILUA with the Yaegl People would require Crown Lands on behalf of the State of NSW as owner of the land to be a party to the ILUA. It is also likely that Council as Crown Land Manager of the Hickey Island Reserve and the adjoining Flinders Park Reserve would also need to be a party to the ILUA.



An ILUA is a voluntary agreement between a native title group and other parties on the use and/or management of land and waters. In general, ILUAs take 6 months to 2 years (and in excess of) to negotiate and are a legally binding contract between the parties to the ILUA.

## BACKGROUND

The former Gorman's Big Oyster Restaurant (Gorman's restaurant) has sat vacant since the former Department of Trade & Investment, Crown Lands terminated its licence agreement with Eurunderie Investments P/L in August 2014. The building is now in a dilapidated condition posing an unsightly public safety risk.

Gorman's restaurant sits on a parcel of freehold land within Hickey Island, being Crown land (part R1003009) set aside for the public purposes of Public Recreation and Coastal Environmental Protection, notified 07-September-2001. The land is landlocked with no public access or right of carriageway.

The land (Lot 186 DP47046) was formerly Crown land that was successfully claimed by the Birrigan Gargle Local Aboriginal Land Council under the *Aboriginal Land Rights Act 1983* on the 12 November 2018. Birrigan Gargle sold this land at auction on the 5 September 2020. The land and former Gorman's restaurant building is currently owned by Swell 77 Pty Ltd.

Swell 77 Pty Ltd via consultants have held two prelodgement meetings with Council staff in regards to the proposed redevelopment of the site; in November 2020 and June 2021. Swell 77 have been trying to secure landowner's consent from Crown Lands since at least October 2022 to traverse the adjoining Crown land (i.e.. Flinders Park & Hickey Island Reserve) and to install any temporary structures on these lands as part of the demolition works. In October 2023, Swell 77 Pty Ltd attempted to lodge a development application with Council which was returned due to the absence of landowner's consent from Crown Lands.

Native title was granted to the Yaegl People over Hickey Island (excluding Lot 186 & 187 DP47046) and the adjoining Flinders Park reserve on the 25 June 2015 as part of the Yaegl People's #2 Native Title Determination (*Yaegl People #1 v Attorney General of New South Wales [2015] FCA 647*). The Yaegl People's native title rights and interests are held on trust by the Yaegl Traditional Owners Aboriginal Corporation RNTBC (Yaegl TOAC).

Any activity or act that has the potential to impair or impact the native title rights and interests of traditional owners must be validated under one of the Future Act subdivisions of the *Native Title Act 1993* (Cth). If the activity or act cannot be undertaken under one of the Future Act subdivisions an ILUA would need to be negotiated for the activity/act to proceed.

It is noted that the former *Yaegl Interim Licences ILUA* between Crown Lands and the Yaegl TOAC expired on the 20 November 2023. In the absence of this ILUA being extended or renewed there is no alternate valid pathway under the *Native Title Act 1993* (Cth) other than an ILUA for Swell 77 to legally access their land or to be able to comply with the Order issued. The exception being (potentially) a Court imposed easement under s88K of the *Conveyancing Act 1919* providing a right of carriageway between the former Gorman's restaurant site and Harbour Street.

## COUNCIL IMPLICATIONS

### Budget/Financial

The cost at this point is limited to the administrative costs of Council staff trying to resolve this matter ...

### Asset Management

Council is the Crown Land Manager of Flinders Park (R85724) and Hickey Island (part R1003009) and includes the road pavement constructed on these reserves from the intersection of Harbour and Clarence Streets. The road infrastructure are not public roads for the purpose(s) of the *Roads Act 1993*.

### Policy and Regulation

*Environmental Planning and Assessment Act 1979*

*Crown Land Management Act 2016*

*Local Government Act 1993*

*Native Title Act 1993* (Cth)

**Consultation**

Consultation with Swell 77 Pty Ltd and Crown Lands in the course of progressing the proposed demolition of the former Gorman's Restaurant has been undertaken.

**Legal and Risk Management**

The matter is complex because of the implications of native title and the ability to determine a valid course of action under the *Native Title Act 1993* (Cth). No advice has been forthcoming from Crown Lands on whether the *Yaegl Interim Licences ILUA* will be extended or not. Council as Crown Land Manager of Flinders Park (R85724) and Hickey Island (part R1003009) is limited to actions associated with the use and management of these reserves consistent with their respective notified purposes. Council as a consent authority under the *Environmental Planning and Assessment Act 1979* is limited by the jurisdiction of this Act – it cannot override the requirements of legislation passed by the Commonwealth Government.

**Climate Change**

N/A



**ITEM 07.24.031 SUBMISSION REGARDING NSW GOVERNMENT'S SHORT-TERM RENTAL ACCOMMODATION (STRA) FRAMEWORK**

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	Environment & Planning	
<b>Prepared by</b>	Manager Development & Land Use Planning, Murray Lane	
<b>Reviewed by</b>	Director Environment & Planning, Adam Cameron	
<b>Attachments</b>	A. Submission - Review of Short term rental accommodation STRA <a href="#">↗</a> B. STRA Review Frequently Asked Questions - NSW DPHI <a href="#">↗</a> C. Discussion Paper on STRA - NSW DPHI (Separate Cover) <a href="#">↗</a>	

**SUMMARY**

The NSW Government has commenced a review of the Short-Term Rental Accommodation (STRA) planning and regulatory framework which commenced on 1 November 2021, with a stated aim of reviewing the existing framework in context of increasing housing affordability pressures and the impact that STRA has on long-term rental accommodation, whilst seeking to balance any proposed changes with benefits of STRA related to local economies.

The NSW Government has released a discussion paper and is seeking feedback but has not yet proposed any draft changes to the current STRA framework.

Council previously adopted for inclusion of 180-day limit for non-hosted STRA dwellings located within the R2 Low Density Residential zoned land within our coastal towns and villages. Accordingly, it is considered appropriate for Council to make a formal submission to inform any proposed policy changes.

**OFFICER RECOMMENDATION**

That Council make a submission to the NSW Government in response to the initial stage of a review into the Short Term Rental Accommodation planning and regulatory framework, as included as **Attachment A**.

**LINKAGE TO OUR COMMUNITY PLAN**

- Theme Economy
- Objective We will have an attractive and diverse environment for business, tourism and industry

**KEY ISSUES**

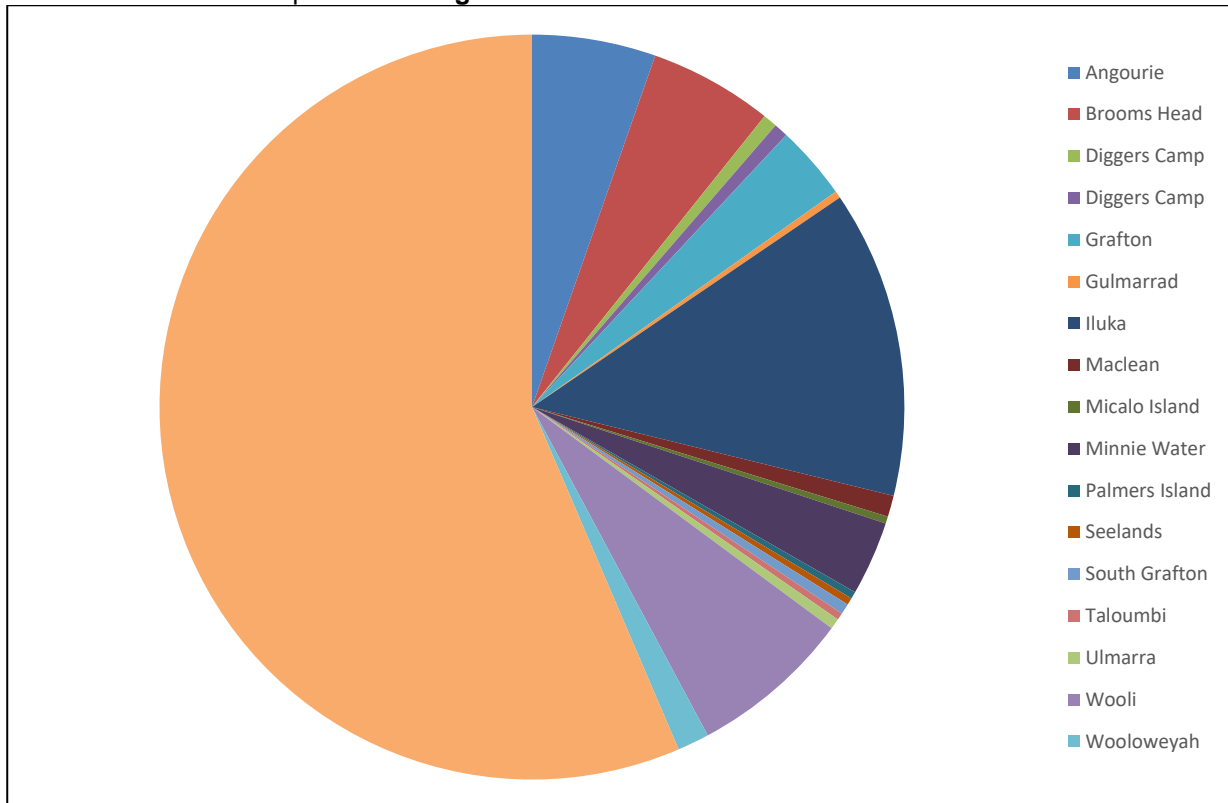
Since the implementation of the STRA planning and regulatory framework which commenced on 1 November 2021, housing availability and affordability and cost of living pressures have remained significant issues across NSW. The NSW Government has now commenced a review of the STRA framework which seeks to balance competing policy objectives, as outlined in **Figure 1** below. Further information about the review is outlined in the NSW Government's Frequently Asked Questions and Discussion paper on short-and long-term rental accommodation (see attached).



**Figure 1: Policy objectives of the review (Source: STRA Discussion paper)**

An initial review of the available STRA information indicates that the Clarence Valley currently has 663 non-hosted STRA properties, which represents about 3.2% of the approximate 20,839 dwellings in the local government area (LGA). This places the Clarence Valley in the vicinity of the Top 10 LGAs with high concentration of non-hosted STRA registrations across NSW.

Within the LGA, Yamba has by far the largest number of non-hosted STRA registrations (368), followed by Iluka (87), Woolli (46), Brooms Head (35) and Angourie (35). Specific locations registered for non-hosted STRA within the LGA is provided in **Figure 2** below.



**Figure 2: Non-hosted STRA registrations by location**

It is possible the high number of listings in these key locations are affecting supply and affordability of long-term rental accommodation. Further research and analysis is required to inform the actual impacts on long-term rental affordability, as well as understanding the benefits of STRA on local economies.

A submission has been prepared by Council’s planning staff and is provided as **Attachment A**. The key matters included in the submission are summarised as:

- Overall, the current STRA framework does not appear to provide policy settings that discourage the use of dwellings for STRA.
- The Planning Portal’s STRA Property Register has issues with data integrity and is not an effective regulatory tool.
- The 180 day non-hosted STRA limit does not appear to be effective in discouraging STRA in R2 Low Density areas.
- The currently STRA framework does not provide councils with effective compliance tools to enforce the 180 day limit.
- The principles of new revenue measures are generally supported, but require much more information for Council to properly consider any impact on our local community.
- Any proposed revenue generated from STRA within the Clarence Valley LGA should be efficiently directed to the provision of social and affordable housing within the areas of highest need within our LGA.
- Overall, sustainably more socio-economic assessment is required to be undertaken by the NSW Government to inform the STRA review. Proposed policy options need to be considered against the current housing market and affordability trends, the existing STRA policy settings and any impacts on local economies.

- A range of policy options should be provided for local government to consider, supported by an evidence-based approach (inclusive of the recommended detailed socio-economic assessment described above).
- Since implementation of the STRA framework, inclusive of the Code of Conduct, feedback from the community about complaints regarding the management of STRA has decreased. This element of the STRA framework appears to be a positive element that should be continued.

The key recommendations made in the submission are:

1. The review must include more detailed socio-economic assessment of any proposed planning controls and/or revenue generating measures.
2. A range of policy options should be provided for local government decision making, allowing for an 'opt in' approach for solutions that may be appropriate for a variety of locations within a LGA.
3. Any new revenue must be directed towards social and affordable housing supply within the Local Government Area.
4. The STRA Property Register must be redesigned to ensure all STRA properties are registered across any booking platform or method, and for robust and efficient compliance with any day-cap limits.
5. Changes should not increase administrative, development application and compliance workloads for local governments.

## BACKGROUND

An explanation of the NSW Government's existing STRA framework is outlined on the [Department of Planning, Housing and Infrastructure's Short-term rental accommodation webpage](#) and information specific to the Clarence Valley is provided on [Council's STRA webpage](#).

At the 27 August 2019 (Resolution 6a.19.017) and 20 November 2018 (Resolution 14.131/18) Ordinary Council Meetings, Council considered the current STRA framework and made decisions about including the respective R2 Low Density Zone areas of our coastal towns and villages (being Angourie, Wooloweyah, Brooms Head, Diggers Camp, Wooli, Iluka, Yamba, Minnie Water and the Sandon) being included within prescribed areas subject to a 180-day annual limit for non-hosted STRA dwellings.

## COUNCIL IMPLICATIONS

### Budget/Financial

N/A

### Asset Management

N/A

### Policy and Regulation

State Environmental Planning Policy (Housing) 2021  
Environmental Planning and Assessment Act, 1979

### Consultation

The NSW Government has called for submissions from the community, with consultation open for a limited period from 15 February 2024 until 14 March 2024. The Department of Planning, Housing and Infrastructure (DPHI) have advised council staff to make a submission within the period.

In acknowledgement that the short four (4) week exhibition timeframe is insufficient to allow for business paper preparation and formal council resolutions, the relevant DPHI Executive Director has requested councils make submissions by way of a Council resolution after the formal closing date.

Accordingly, a submission has been made by Council staff (**Attachment A**) by the 14 March 2024 closing date, noting that the elected body may make the same or an amended submission by way Council resolution.

### Legal and Risk Management

The recommended submission does not result in any legal or reputation risk, noting it does not propose any new policy position on behalf of Council.

**Climate Change**

N/A

**CORPORATE & COMMUNITY****ITEM 07.24.032 OUTCOME FROM THE CIVIL AND ADMINISTRATION TRIBUNAL (NCAT) NSW  
YAMBA CAN INC VERSES CLARENCE VALLEY COUNCIL**

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	Corporate & Community	
<b>Prepared by</b>	Director Corporate & Community, Alex Moar	
<b>Reviewed by</b>	General Manager, Laura Black	
<b>Attachments</b>	Nil	

**SUMMARY**

Outcome from the Civil and Administration Tribunal (NCAT) NSW Yamba CAN Inc verses Clarence Valley Council [2024] NSWCATAD 66 hearing on 28 February 2024.

**OFFICER RECOMMENDATION**

That Council note the decision made by Senior Member M Riordan on 11 March 2024 was to affirm the decision made by Council after the hearing on the 28 February 2024 of Yamba CAN Inc verses Clarence Valley Council [2024] NSWCATAD 66 at the Civil and Administration Tribunal NSW.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme Leadership

Objective We will have a strong, accountable and representative Government

**KEY ISSUES**

On 12 June 2023, Yamba CAN made a request for the release of information under the Government Information (Public Information) Act 2009 (NSW) (the GIPA Act). One of the requests was for the reasons given for resigning in exit interviews.

On 27 June 2023, Council issued a notice of decision and refused access to some of the requested information. Council's decision not to release the reasons given for resigning in exit interviews was based on the following, which outweigh the reasons for disclosure – from Table 14 the GIPA Act.

- (1) Clause 1(d), on the basis that disclosure of the information could reasonably be expected to prejudice the supply to an agency of confidential information that facilitates the effective exercise of the agency's functions;
- (2) Clause 1(f), on the basis that disclosure of the information could reasonably be expected to prejudice the effective exercise by an agency of the agency's functions; and
- (3) Clause 1(g), on the basis that disclosure of the information could reasonably be expected to found an action against an agency for breach of confidence or otherwise result in the disclosure of information provided to an agency in confidence.

On 30 June, Yamba CAN Inc applied to the Information and Privacy Commissioner (IPC) for an external review of Council's decision.

On 8 September 2023, the IPC made a recommendation under s 93 of the GIPA Act that the respondent make a new decision by way of internal review. Council accepted this and undertook an internal review which was issued on 16 October 2023. Based on the public interest test and IPC guidelines, some additional information was released. Based on the public interest test for the release of the reasons given for resigning in exit interviews, the public interest considerations against disclosure outweigh those in favour of disclosure and that there is an overriding public interest against its disclosure.

Prior to the completion of the internal review, Yamba CAN Inc lodged an application for administration review at NCAT on 9 October 2023.

On 30 October 2023, Senior Member Perrignon conducted a case conference and listed the matter for mediation on 21 November 2023. The mediation did not resolve the matter. Documents and submissions from both parties were ordered and the matter was listed for hearing on 28 February 2024.

The matter was heard by Senior Member M Riordan. Following the completion of oral submissions from both parties the Tribunal reserved its decision. As decision was published on 11 March 2024 as noted in the [NCAT Case Law Link](#). The decision of the Tribunal was

139 *I am satisfied that the public interest considerations against disclosure of the disputed information outweigh those in favour of its disclosure and that there is an overriding public interest against its disclosure*

### **Conclusion**

140 *For these reasons, I am satisfied that the correct and preferable decision is to affirm the decision under review.*

### **Order**

141 *The decision under review is affirmed.*

### **BACKGROUND**

As outlined above and in the [NCAT Case Law Link](#).

### **COUNCIL IMPLICATIONS**

#### **Budget/Financial**

Legal costs for professional solicitor fees \$20,061.25.

Total time for Manager Organisational Development – 5 hours Original decision maker

Total time for Director Corporate and Community – decision maker for internal review, case conference attendance via AVL, mediation attendance via AVL, collation of evidence, two statement written, collation and review of submissions, review applicant's submissions and evidence, attendance at hearing via ALV, meetings with solicitor – approximately 48 hours between October 2023 to decision notification 11 March 2024.

#### **Asset Management**

NA

#### **Policy and Regulation**

Council followed legislation and IPC guidelines to make a decision based on the public interest test, that was confirm by NCAT.

#### **Consultation**

NA

#### **Legal and Risk Management**

Risk of confidentiality breach.

#### **Climate Change**

NA

**ITEM 07.24.033 2022/2023 ANNUAL REPORT UPDATE MARCH 2024**

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	Corporate & Community	
<b>Prepared by</b>	Director Corporate & Community, Alex Moar	
<b>Reviewed by</b>	General Manager, Laura Black	
<b>Attachments</b>	Nil	

**SUMMARY**

This report asks that Council endorses the updated 2022/2023 Annual Report that contains audited financial data and that it is placed on Council's website, and that the URL for the updated 2022/2023 Annual Report be sent to the Office of Local Government

**OFFICER RECOMMENDATION**

That Council:

1. endorse the updated 2022/2023 Annual Report that includes relevant financial data
2. endorse the updated 2022/2023 Annual Report is made available to the community on Council's website
3. endorse the URL link to the updated 2022/2023 be sent to the Office of Local Government (OLG) in order that the Minister for Local Government be advised of its availability.
4. note the update of the Annual Financial Statements and Auditors report 2022/2023 on the website

**LINKAGE TO OUR COMMUNITY PLAN**

Theme Leadership

Objective We will have a strong, accountable and representative Government

**KEY ISSUES**

The Annual Report is one of the key points of accountability between Council and the community in the Integrated Planning and Reporting Framework. The report outlines the Council's achievements in meeting statutory compliance requirements throughout the 2022/2023 financial year.

The 2022/2023 Annual Report was endorsed by Council in the November 2023 meeting (ITEM 07.23.210), uploaded onto the website, and sent to the OLG as required. The relevant financial data was unable to be included due to the extension of time given by the Office of Local Government (OLG) to finalise the 2022/2023 Financial Statements.

At the Ordinary Council Meeting on 27 February 2024 (ITEM 07.24.013) Council received and noted the Audited 2022/2023 Annual Financial Statements.

The Audited Financial Statement data has been incorporated into the 2022/2023 Annual Report (p. 87).

The report can be located as this link - [Annual Report 2022/2023 updated March 2024](#)

**BACKGROUND**

As above

**COUNCIL IMPLICATIONS****Budget/Financial**

N/A

**Asset Management**

N/A

**Policy and Regulation**

N/A

**Consultation**

N/A

**Legal and Risk Management**

N/A

**Climate Change**

N/A



**ITEM 07.24.034 POLICY REPORT**

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	Corporate & Community	
<b>Prepared by</b>	Governance Officer, Lohrairie Souza	
<b>Reviewed by</b>	Director Corporate & Community, Alex Moar	
<b>Attachments</b>	A. Voluntary Contribution for Dust Sealing of Unsealed (Gravel ) Roads V2.0 <a href="#">⇒</a> B. Competitive Neutrality Policy V5.0 <a href="#">⇒</a> C. Credit Card Use Policy V5.0 <a href="#">⇒</a> D. Sundry Debtors Recovery Policy V2.0 <a href="#">⇒</a>	

**SUMMARY**

This report recommends action in relation to Council policies.

**OFFICER RECOMMENDATION**

That Council

1. place the following policies on exhibition and subject to there being no submissions that change the intent of the policies that they be adopted:
  - a. Voluntary Contribution for Dust Sealing of Unsealed (Gravel) Roads (Attachment A)
  - b. Competitive Neutrality Policy V5.0 draft (Attachment B)
  - c. Credit Card Use policy V5.0 draft (Attachment C)
  - d. Sundry Debtors Recovery Policy V2.0 draft (Attachment D)

**LINKAGE TO OUR COMMUNITY PLAN**

Theme Leadership

Objective We will have a strong, accountable and representative Government

**KEY ISSUES****Policies for exhibition****1a. Voluntary Contribution for Dust Sealing of Unsealed (Gravel) Roads**

The Voluntary Contribution for Dust Sealing Policy has had the length of the unsealed road in Clarence Valley updated in accordance with 2023 data, and further technical details in relation to the dust seal process have been added. Grammatical updates have also been made to this policy.

**1.b Competitive Neutrality Policy V5.0 draft (Attachment B)**

No changes to the policy.

**1.c Credit Card Use policy V5.0 draft (Attachment C)**

An additional point related to the Cardholder's responsibility to report fraud has been added and position titles have been updated.

**1.d Sundry Debtors Recovery Policy V2.0 draft (Attachment D)**

This policy has been transferred to the new template and reference to Clarence Care & Support and related legislation to Aged Care and NDIS has been removed.

**BACKGROUND**

As outlined in the report.

**COUNCIL IMPLICATIONS**

**Budget/Financial**

N/A

**Asset Management**

N/A

**Policy and Regulation**

As outlined in the report.

**Consultation**

Internal staff in the key subject matter areas and policies out for public submission.

**Legal and Risk Management**

As outlined in the report

**Climate Change**

N/A

**ITEM 07.24.035 ITEMS FOR INFORMATION**

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	General Manager	
<b>Attachments</b>	A. Access Committee Minutes - October 2023 <a href="#">⇒</a> B. Access Committee Minutes - November 2023 <a href="#">⇒</a> C. ARIC Meeting Minutes - December 2023 (Confidential) D. Coaldale Barretts Creek Hall Committee- January 2024 <a href="#">⇒</a> E. Climate Change Advisory Committee Minutes - February 2024 <a href="#">⇒</a> F. Water Efficiency Working Group Draft Minutes - March 2024 <a href="#">⇒</a> G. Correspondence from Ryan Park MP - GBH Redevelopment <a href="#">⇒</a> H. Correspondence from Kevin Hogan MP - Flood Recovery <a href="#">⇒</a>	

**SUMMARY**

Correspondence and committee minutes are attached for noting.

**OFFICER RECOMMENDATION**

That the Items for Information as listed below be noted

- Access Committee Minutes - October 2023
- Access Committee Minutes - November 2023
- ARIC Meeting Minutes - December 2023
- Coaldale Barretts Creek Hall Committee - January 2024
- Climate Change Advisory Committee Minutes - February 2024
- Water Efficiency Working Group Draft Minutes - March 2024
- Correspondence from Ryan Park MP - GBH Redevelopment
- Correspondence from Kevin Hogan MP - Flood Recovery

**ITEM 07.24.036 COUNCIL MEETING CHECKLIST - UPDATE ON ACTIONS TAKEN**

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	Corporate & Community	
<b>Prepared by</b>	Corporate Support Officer, Michelle West	
<b>Reviewed by</b>	General Manager, Laura Black	
<b>Attachments</b>	A. Actions List - Completed <a href="#">⇒</a>	
	B. Actions List - Outstanding <a href="#">⇒</a>	
	C. Rolling Checklist from 2019-2021 <a href="#">⇒</a>	

**SUMMARY**

This report updates Councillors on actions taken to implement resolutions at previous Council meetings

**OFFICER RECOMMENDATION**

That the schedule of actions on Council resolutions be noted and those resolutions marked as complete be removed from the rolling checklist.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme Leadership

Objective We will have a strong, accountable and representative Government

**KEY ISSUES**

A checklist is issued to Managers and relevant staff after each Council meeting to enable them to provide comments on the status of resolutions adopted by Council. The attached checklist contains actions taken on all Council resolutions from the previous month's meeting and the status/progress on all Council resolutions that have not yet been fully implemented. Those items marked as complete will not appear on any future checklists if the officer's recommendation is adopted.

**BACKGROUND**

A formal monthly report is required for each Council meeting, including full checklist from the previous month and any outstanding actions from earlier meetings.

**COUNCIL IMPLICATIONS****Budget/Financial**

N/A

**Asset Management**

N/A

**Policy and Regulation**

Local Government Act 1993 S355 (1)

**Consultation**

Staff, Managers

**Legal and Risk Management**

N/A

**Climate Change**

N/A

**ITEM 07.24.037 MONTHLY INVESTMENT REPORT - FEBRUARY 2024**

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	Corporate & Community	
<b>Prepared by</b>	Financial Accountant, Nick Harvey	
<b>Reviewed by</b>	Director Corporate & Community, Alex Moar	
<b>Attachments</b>	A. Movement of Funds Between Months - February <a href="#">⇨</a>	

**SUMMARY**

The purpose of this report is to inform Council of the details of Council's investment funds at the end of each month.

**OFFICER RECOMMENDATION**

That the report indicating Council's funds investment position as at 29 February 2024 be noted.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme Leadership  
Objective We will have an effective and efficient organisation

**KEY ISSUES****Source of Funds Invested**

The funds invested are funds held under internal and external restrictions. External restrictions are primarily from Sewer & Water, Granting Bodies and Developer Contributions. Internal restrictions are primarily sourced from General Revenue Funding and Unspent Loans.

Based on the audited 30 June 2023 figures, funds have been sourced from the following areas:

External Reserves		Internal Reserves	
Sewerage Funds	8.29%	Fleet Plant Reserve	5.40%
Water Supply Funds	17.86%	Regional Landfill Reserves	4.88%
Developer Contributions	22.40%	Fin. Assist Grants paid in advance	7.50%
Unexpended Grants	11.64%	Waste Mngmt / Commercial Waste	4.83%
Domestic Waste Management	0.71%	Infrastructure Assets Renewals	1.32%
Holiday Parks	4.29%	Employee Leave Entitlements	2.19%
Deposits, Retentions and Bonds	2.45%	Other (refer attachment for further detail)	5.46%
Other External	0.78%		
	68.43%		
			31.57%
		Total External & Internal Reserves	100.00%

**Portfolio Credit Limits**

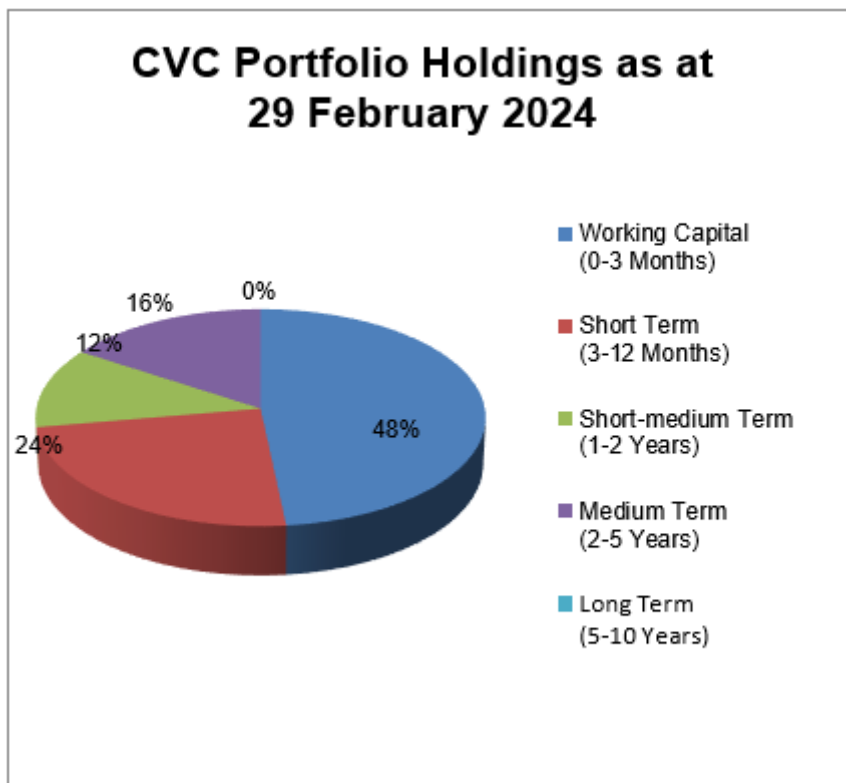
Tabled below is a summary of Council's investments as at 29 February 2024, which details compliance with Council's Investment Policy Portfolio Credit Limits.

Portfolio Credit Limits as at 29 February 2024				
Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
AAA	100.00%	4,500,000	2.84%	Yes
AA	100.00%	78,608,103	49.54%	Yes
A	60.00%	20,250,000	12.76%	Yes
BBB	50.00%	55,313,183	34.86%	Yes
<b>TOTAL INVESTMENTS</b>		<b>158,671,286</b>	<b>100.00%</b>	

Note, a permanent cap of \$250,000 per person per institution on deposits is guaranteed by the Federal Government under the Financial Claims Scheme and hence receives a rating of AAA.

**Portfolio Holdings by Maturity**

Illustrated and tabled below is a summary of Council's investments by maturity as at 29 February 2024. Excluding "at-call" working capital, 24% of Council's investments are maturing within the next twelve months.



**Individual Institution or Counterparty Limits**

Tabled below is a summary of Council's investments as at 29 February 2024 which details compliance with Council's Investment Policy Counterparty Limits.



Individual Institution or Counterparty Limits as at 29 February 2024					
Financial Institution	Credit Rating Long Term	Investment Policy Maximum Holding	Total Investments Held	% of Total Investments	Complies with Policy (yes/no)
<b>TERM DEPOSITS</b>					
AMP	BBB	15.00%	6,000,000	3.78%	Yes
BoQ	BBB+	15.00%	5,000,000	7.56%	Yes
ME Bank	BBB+		7,000,000		
CBA	AA-	30.00%	3,000,000	1.89%	Yes
Defence	BBB	15.00%	7,000,000	4.41%	Yes
ING Direct	A	15.00%	17,000,000	10.71%	Yes
MyState	BBB+	15.00%	5,000,000	3.15%	Yes
NAB	AA-	30.00%	15,000,000	9.45%	Yes
NTTC	AA-	30.00%	3,000,000	1.89%	Yes
P&N	BBB	15.00%	18,000,000	11.34%	Yes
Suncorp	A+	15.00%	4,000,000	2.52%	Yes
Westpac	AA-	30.00%	9,000,000	5.67%	Yes
<b>TOTAL TERM DEPOSITS</b>			<b>99,000,000</b>	<b>62.39%</b>	
<b>FUNDS AT CALL</b>					
AMP	BBB	15.00%	8,965,854	5.65%	Yes
AMP	BBB	15.00%	1,097,329	0.69%	Yes
ANZ	AA-	30.00%	7,197,824	4.54%	Yes
CBA	AA-	30.00%	19,874,349	12.53%	Yes
CBA	AA-	30.00%	1,956,137	1.23%	Yes
CBA	AA-	30.00%	20,579,793	12.97%	Yes
<b>TOTAL FUNDS AT CALL</b>			<b>59,671,286</b>	<b>37.61%</b>	
<b>TOTAL INVESTMENTS</b>			<b>158,671,286</b>	<b>100.00%</b>	

Register of Investments - Clarence Valley Council as at 29 February 2024					
Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
<b>WORKING CAPITAL (0-3 MONTHS)</b>					
T-CorpIM Cash Fund	-	0.00%	At-Call	0.00%	AAA
AMP Bank Ltd	8,965,854	5.65%	At-Call	4.70%	BBB
AMP Bank Ltd	1,097,329	0.69%	At-Call	3.08%	BBB
ANZ Banking Group Ltd	7,197,824	4.54%	At-Call	4.30%	AA-
Commonwealth Bank of Australia	19,874,349	12.53%	At-Call	4.20%	AA-
Commonwealth Bank of Australia	1,956,137	1.23%	At-Call	0.25%	AA-
Commonwealth Bank of Australia	20,579,793	12.97%	At-Call	4.35%	AA-
Commonwealth Bank of Australia	3,000,000	1.89%	10/05/2024	3.60%	AA-
ING	3,000,000	1.89%	10/05/2024	3.66%	A
ING	2,000,000	1.26%	13/05/2024	3.66%	A
ING	3,000,000	1.89%	15/05/2024	3.66%	A
MyState	2,000,000	1.26%	05/03/2024	1.70%	BBB
P&N Bank	2,000,000	1.26%	11/03/2024	5.05%	BBB
Suncorp	2,000,000	1.26%	04/03/2024	5.02%	A+
	<b>76,671,286</b>	<b>48.32%</b>		<b>4.09%</b>	
<b>SHORT TERM (3-12 MONTHS)</b>					
AMP Bank Ltd	1,000,000	0.63%	30/08/2024	5.30%	BBB
AMP Bank Ltd	2,000,000	1.26%	14/11/2024	4.70%	BBB
Bank Of Queensland Ltd	2,000,000	1.26%	02/12/2024	1.60%	BBB+
Defence Bank	2,000,000	1.26%	21/11/2024	4.55%	BBB
Defence Bank	1,000,000	0.63%	05/12/2024	4.70%	BBB
ING	1,000,000	0.63%	06/08/2024	5.30%	A
ME Bank Ltd	2,000,000	1.26%	18/07/2024	4.26%	BBB
MyState	3,000,000	1.89%	14/06/2024	4.45%	BBB
National Australia Bank	2,000,000	1.26%	08/07/2024	0.80%	AA-
National Australia Bank	2,000,000	1.26%	11/09/2024	5.23%	AA-
P&N Bank	3,000,000	1.89%	14/06/2024	4.53%	BBB
P&N Bank	2,000,000	1.26%	16/09/2024	4.40%	BBB
P&N Bank	2,000,000	1.26%	29/11/2024	1.70%	BBB
P&N Bank	2,000,000	1.26%	17/12/2024	1.62%	BBB
Suncorp	2,000,000	1.26%	19/09/2024	5.20%	A+
Westpac Bank	1,000,000	0.63%	20/06/2024	0.85%	AA-
Westpac Bank	3,000,000	1.89%	15/10/2024	1.00%	AA-
Westpac Bank	1,000,000	0.63%	15/11/2024	1.63%	AA-
Westpac Bank	2,000,000	1.26%	18/11/2024	4.55%	AA-
Westpac Bank	2,000,000	1.26%	02/12/2024	4.41%	AA-
<b>TOTAL SHORT TERM (3-12 MONTHS)</b>	<b>38,000,000</b>	<b>23.95%</b>		<b>3.52%</b>	

Financial Institution	Total Investments Held	% of Total Investments	Maturity Date	Investment Return	Credit Rating Long Term
<b>SHORT - MEDIUM TERM (1-2 YEARS)</b>					
Bank Of Queensland Ltd	1,000,000	0.63%	06/08/2025	4.09%	BBB+
Defence Bank	2,000,000	1.26%	03/03/2025	5.00%	BBB
Defence Bank	2,000,000	1.26%	11/03/2025	4.90%	BBB
ING	2,000,000	1.26%	03/03/2025	5.10%	A
ING	2,000,000	1.26%	13/03/2025	4.95%	A
National Australia Bank	2,000,000	1.26%	06/03/2025	4.93%	AA-
National Australia Bank	2,000,000	1.26%	05/08/2025	5.03%	AA-
National Australia Bank	2,000,000	1.26%	12/01/2026	1.00%	AA-
P&N Bank	1,000,000	0.63%	13/03/2025	4.75%	BBB
P&N Bank	2,000,000	1.26%	16/06/2025	4.67%	BBB
P&N Bank	1,000,000	0.63%	16/02/2026	2.49%	BBB
<b>TOTAL SHORT-MEDIUM TERM (1-2 YEARS)</b>	<b>19,000,000</b>	<b>11.97%</b>		<b>4.34%</b>	
<b>MEDIUM TERM (2-5 YEARS)</b>					
AMP Bank Ltd	3,000,000	1.89%	01/09/2026	4.95%	BBB
Bank Of Queensland Ltd	2,000,000	1.26%	31/08/2028	4.99%	BBB+
ING	2,000,000	1.26%	21/08/2026	5.20%	A
ING	1,000,000	0.63%	18/08/2027	5.22%	A
ING	1,000,000	0.63%	05/10/2027	5.00%	A
ME Bank Ltd	5,000,000	3.15%	09/06/2027	4.50%	BBB
National Australia Bank	2,000,000	1.26%	10/08/2026	4.95%	AA-
National Australia Bank	3,000,000	1.89%	22/02/2027	2.40%	AA-
Northern Territory Treasury Corp	3,000,000	1.89%	15/12/2026	1.50%	AA-
P&N Bank	3,000,000	1.89%	31/08/2027	5.05%	BBB
<b>TOTAL MEDIUM TERM (2-5 YEARS)</b>	<b>25,000,000</b>	<b>15.76%</b>		<b>4.19%</b>	
<b>TOTAL INVESTMENTS</b>	<b>158,671,286</b>	<b>100.00%</b>		<b>4.00%</b>	

## BACKGROUND

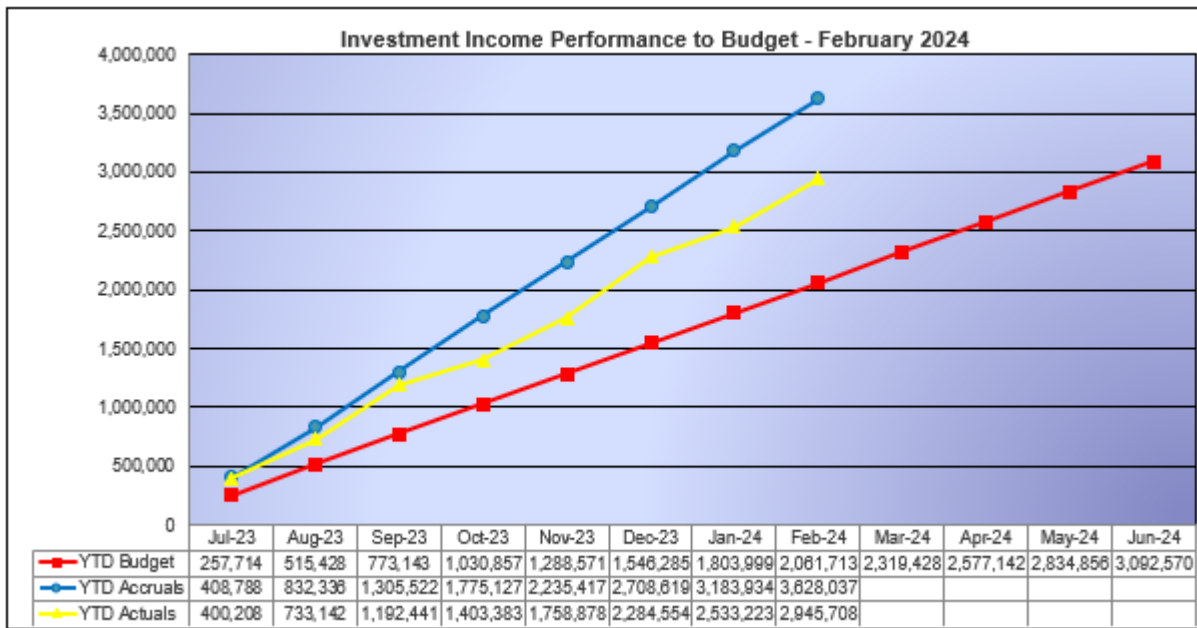
This report has been completed in accordance with the *Local Government Act 1993*, part 9, Division 5, Clause 212 of the *Local Government (General Regulation 2005)*, and Council's Investment Policy, which requires a monthly report to Council. The report is to include the source and amount of funds invested, terms of performance, and a statement of compliance in relation to the *Local Government Act 1993*.

## COUNCIL IMPLICATIONS

### Budget/Financial

<b>Portfolio Investment Returns to 29 February 2024</b>			
	<b>Actual</b>	<b>Budget 2023/24</b>	<b>Over/(Under)</b>
<b>This Month</b>			
Cash Deposits & FRNs	\$444,102	\$257,715	\$186,387
Managed Funds	\$0	\$0	\$0
	<b>\$444,102</b>	<b>\$257,715</b>	<b>\$186,387</b>
<b>Year to Date</b>			
Cash Deposits & FRNs	\$3,628,037	\$2,061,713	\$1,566,324
Managed Funds	\$0	\$0	\$0
	<b>\$3,628,037</b>	<b>\$2,061,713</b>	<b>\$1,566,324</b>

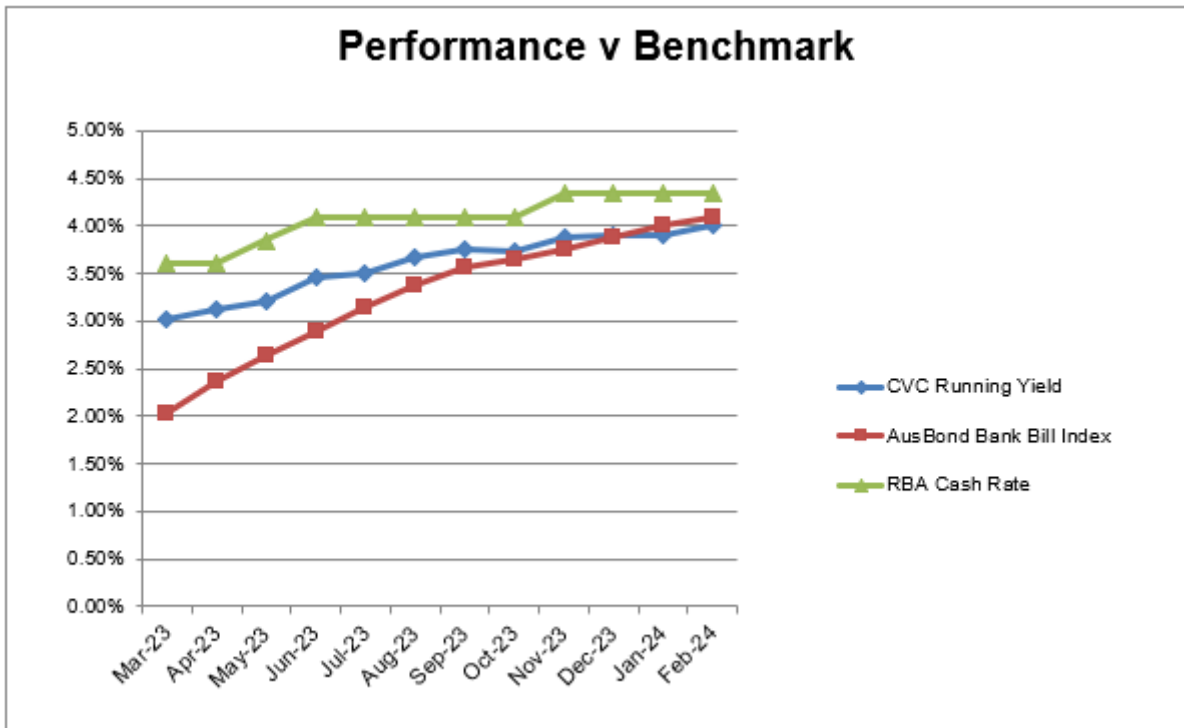
- Actual results have shown that total interest income to 29 February 2024 is \$1.566M above the 2023/2024 YTD budget of \$2.062M. A budget variation to realign the budgeted investment income with realised investment income will be completed in the March QBRS.



Running yields\* to 29 February 2024 have been:

AMP Business	3.08%
AMP 31 Day Notice	4.70%
ANZ Premium Business	4.30%
CBA General	4.20%
CBA BOS	4.35%
24hr Call Account	0.25%
Term Deposits	3.88%
<b>Total</b>	<b>4.00%</b>

- Running yield is a measure of the return (before costs) that would be earned from current positions if there were no trades and no fluctuation in market yields.
- The RBA cash rate at the end of February was 4.35%. The benchmark AusBond Bank Bill Index was 4.10% for February.
- The current running yield of the total investment portfolio now stands at 4.00% (January 3.90%). The RBA cash rate remained at 4.35%. The CVC running yield has therefore fallen below the RBA cash rate by 0.35%.



There following investment transactions occurred during the month of February.

- P&N Bank \$3,000,000 TD matured 12 February 2024 – Redeemed
- BOQ \$3,000,000 TD matured 21 February 2024 – Redeemed

**Asset Management**

N/A

**Policy and Regulation**

- Local Government Act 1993
- Part 9, Division 5, Clause 212 of the Local Government (General) Regulation 2005
- Investment Policy

**Consultation**

N/A

**Legal and Risk Management**

N/A

**Climate Change**

Climate change impacts of the current investment portfolio are now being considered as each investment matures. In line with section 5.11 of the current Investment Policy, preference is given to Financial Institutions that publicly state that they do not invest in nor finance the fossil fuel industry. It should be noted that investments under this section of the policy will only be made providing that the rate of return is equivalent or more favourable and that the investment does not increase the overall risk of Council’s investment portfolio. Total value of investments currently held with Financial Institutions that do not invest nor finance the fossil fuel industry is \$39.0M

**ITEM 07.24.038 2023/2024 PROPOSED LOAN BORROWINGS**

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	Corporate & Community	
<b>Prepared by</b>	Financial Accountant, Nick Harvey	
<b>Reviewed by</b>	Director Corporate & Community, Alex Moar	
<b>Attachments</b>	Nil	

**SUMMARY**

This report seeks Council's approval for new loan borrowings of \$24.720 million for the General Fund to finalise funding for the construction of the Regional Aquatic Facility (\$19.747 million) and Yamba Community Centre (\$4.973 million) and associated works to be completed over 2023/2024 and 2024/2025.

**OFFICER RECOMMENDATION**

That Council:

1. authorise the General Manager to accept the most cost-effective loan for the General Fund borrowings based on the following loan terms:
  - a. 15 years principal and interest; or
  - b. 20 years principal and interest; or
  - c. 5 years interest only, refinanced at end of term to 20 years principal and interest
2. affix Council's Seal to the loan agreement in accordance with the Affixing Council Seal Policy.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme Leadership

Objective We will have an effective and efficient organisation

**KEY ISSUES**

Council has engaged the services of Ernst & Young (EY) to review Council's current debt position giving consideration to the sustainable debt capacity in relation to the Council on a General and Consolidated Fund basis.

As stated in the EY Debt Review Update report, Council's sustainable debt level for the Consolidated Funds has increased from \$197 million to \$222 million. However, for the General Fund has decreased by \$2m, from \$101 million to \$ 99 million due to decreased operating revenue between 2021 and 2023. Regardless, Council has sufficient loan borrowing capacity in its General Fund for loans of up to \$88.2 million.

Borrowings of \$24.720 million will see Council remain compliant with the conservative debt service range as it has done for some years across both the General and Consolidated Funds.

Financial institutions will only hold interest rates for a limited time which makes it impossible for a report to be prepared for Council's consideration. Accordingly, it is recommended that Council delegate to the General Manager the authority to accept the most cost-effective loan based on the following loan term options:

1. 15 years principal and interest; or
2. 20 years principal and interest; or
3. 5 years interest only, refinanced at end of term to 20 years principal and interest.

**BACKGROUND**

While Council's 2023/2024 Revenue Policy proposes that the General Fund borrow up to \$10 million during 2023/2024 for upgrade of the Regional Aquatic Facility, at its Ordinary Council Meeting, Council approved funding strategies that incorporated current required borrowings for the Regional Aquatic Centre and Yamba Community Precinct projects.

The total loan borrowings required to complete these projects is \$24.720 million - Regional Aquatic Facility - \$19.747 million (07.23.184) and Yamba Community Precinct - \$4.973 million (07.23.183). Draw down of



these loan borrowings will be alignment with the approved capital works construction program soon to commence on each project and continue through 2024/2025.

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

The additional borrowings of \$24.720 million to the General Fund will result in an estimated annual cash outflow of \$2.131 million over 20 years (principal and interest), which has been calculated on a conservative interest rate of 6%.

Based on the Draft Long Term Financial Plan, Council's budgeted Debt Service Ratio (DSR) of 2.07% for 2023/2024 is expected to increase to 3.55% for 2024/25. This remains below Council's upper threshold of 12% for DSR in the General Fund.

### **Asset Management**

The redevelopment of Yamba Community Precinct and The Regional Aquatic Facility will involve the construction of new facilities (new assets). The existing assets will be disposed of, and the new assets will be included in Council's Asset Management Plan.

### **Policy and Regulation**

Borrowing Policy, Section 377 Local Government Act

### **Consultation**

Ernst & Young – Capital and Debt Advisory Services

### **Legal and Risk Management**

The purpose of this report is to comply with Council's legislative obligations with respect to borrowing of money. Council is required to formally resolve to borrow funds and in accordance with Section 377 of the Local Government Act is unable to delegate this function.

In accordance with the Loan Borrowing Order issued by the Minister for Local Government on 13<sup>th</sup> May 2009 Council "*shall not borrow from any source outside the Commonwealth of Australia nor in any other currency other than Australian currency*".

### **Climate Change**

N/A

**ITEM 07.24.039 MONTHLY FINANCE REPORT - FEBRUARY 2024**

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	Corporate & Community	
<b>Prepared by</b>	Business Accountant, Terri Simmons	
<b>Reviewed by</b>	Director Corporate & Community, Alex Moar	
<b>Attachments</b>	A. Monthly Detailed Income & Expenditure By Service - February 2024 <a href="#">⇒</a> B. Monthly Grant Report - February 2024 <a href="#">⇒</a>	

**SUMMARY**

The purpose of this report is to provide financial data at the end of each month for actual income and expenditure, for all funds and provide advance notice of potential budget variations. This report is submitted to Council in addition to the statutory reporting requirements of the Quarterly Budget Review Statements.

Budget variations identified in this report do not impact the General Fund end of year result. The reserve fund variations identified in this report will increase the balance of the Financial Reserves by \$1,633,356.

**OFFICER RECOMMENDATION**

That Council:

1. note the monthly financial information report for February 2024 attached to this report.
2. endorse the proposed General Fund variations as set out in this report, for inclusion in the March Quarterly Budget Review Statement to be reported in April 2024.
3. endorse the proposed variations, which increase the Financial Reserves by \$1,633,356, to be included in the March Quarterly Budget Review Statement to be reported in April 2024.
4. note and endorse the grant applications as identified in Attachment B.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme Leadership

Objective We will have an effective and efficient organisation

**KEY ISSUES****Major Budget Variations Proposed**

Following is a list of the major proposed variations identified during the month of February 2024.

Sub Service	Variation Comments	Net Impact to General Fund Decrease / (Increase)	Net Impact to Reserves Decrease / (Increase)	Previous Council Resolution
420	<b>Service – Library Services</b> <b>Sub-Service – Clarence Regional Library</b> <ul style="list-style-type: none"> <li>Allocate State Library per capita contributions and return surplus funds to reserve (RA 41125 – Regional Library Reserve)</li> </ul>	\$Nil	(\$1,633,356)	NA
	<b>TOTAL Proposed General Fund / Reserve Balance Impact</b>	<b>\$Nil</b>	<b>(\$1,633,356)</b>	

**Explanation of Attachment**

Income and Expenditure Statements (attachment A) are included for the information of Councillors. It should be noted that the reports include actual monthly transactions with the exception of:

- Accruals for depreciation, staff entitlements and reserve interest are estimated only based on the adopted budget, with actual accruals calculated and adjusted end of year.

## BACKGROUND

Section 202 of the *Local Government (General) Regulation 2005* requires that the responsible accounting officer of a council must:

- a) *Establish and maintain a system of budgetary control that will enable the council's actual income and expenditure to be monitored each month and to be compared with the estimate of the council's income and expenditure, and*
- b) *If any instance arises where the actual income or expenditure of the council is materially different from its estimated income or expenditure, report the instance to the next meeting of the council.*

The attachment to this report incorporates a monthly transactional summary of operational and capital income and expenditure by sub service for all Funds. Included in this summary are actual loan repayments transacted and estimated accruals for depreciation, staff entitlements and interest, with these being confirmed at end of year. Reserve interest is excluded, as this is transacted annually.

The report table below highlights any proposed budget variations that staff have become aware of during the past month that may affect the 2023/2024 budget. The mechanism for revising the adopted budget is the Quarterly Budget Review Statement (QBRs) in compliance with Clause 203 of the *Local Government (General) Regulation 2005*.

QBRs reports are submitted to Council in October, February (in the absence of a January meeting) and April of each year, with annual financial information being reported in October (Refer to Audit and Pre-Audit Budget V Actual Result) and November (Annual Financial Statements).

## COUNCIL IMPLICATIONS

### Budget/Financial

#### General Fund Budget (Surplus)/Deficit

Original Budget Adopted by Council June 2023	\$55,526	Deficit
Q1 Revised Budget – September	(\$197,398)	Surplus
Q2 Revised Budget – December	\$78,700	Deficit
Q3 Revised Budget – February	\$0	Nil
<b>Proposed Movement of General Fund 2023/2024 Budget Result as at February 2024</b>	<b>(\$63,172)</b>	<b>Surplus</b>

### Proposed Impact on External and Internal Financial Reserve Funds Result

#### Reserve Movements

Original Budget Adopted by Council June 2023	\$23,121,080	Decrease
Q1 Revised Budget – September	\$15,000	Decrease
Q2 Revised Budget – December	\$383,063	Decrease
Q3 Revised Budget – February	(\$1,633,356)	Increase
<b>Proposed Movement of Reserve Funds 2023/2024 Budget Result as at February 2024</b>	<b>\$21,885,787</b>	<b>Decrease</b>

### Asset Management

N/A

### Policy and Regulation

Section 202 of the *Local Government (General) Regulation*

### Consultation

This report has been prepared in consultation with the Management Accounting Team and relevant Budget Managers.

### Legal and Risk Management

N/A

### Climate Change

N/A

**ITEM 07.24.040 ADOPTION OF THE LAWRENCE COMMUNITY ECONOMIC DEVELOPMENT PLAN**

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	Corporate & Community	
<b>Prepared by</b>	Acting Industry Engagement Officer, Katee Blizzard	
<b>Reviewed by</b>	Director Corporate & Community, Alex Moar	
<b>Attachments</b>	Nil	

**SUMMARY**

The Lawrence Community Economic Development Plan (LCEDP) was out for public exhibition and a summary of the submissions are noted in the report.

**OFFICER RECOMMENDATION**

That Council

1. note the feedback to the Lawrence Community Economic Development Plan.
2. adopt the Lawrence Community Economic Development Plan.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme Economy

Objective We will have an attractive and diverse environment for business, tourism and industry

**KEY ISSUES**

The draft LCEDP was on public exhibition from 07 December 2023 – 5 January 2024, following resolution at the November 2023 Ordinary Meeting.

Eleven submissions were received, with a lot of feedback relating to footpaths. With the release of the Draft Active Transport Strategy (ATS) for public exhibition at the February OCM, staff have reviewed the feedback in line with proposed actions in the draft ATS to ensure the community feedback is considered in the appropriate strategy.

Whilst the Lawrence Community Economic Development Plan that was on exhibition has not been changed, time was required to fully consider the feedback. Most of the feedback was in relation to increasing the footpath connectivity in Lawrence. The Draft Active Transport Strategy (ATS) was endorsed for public exhibition at the February Council meeting and has potential to address the footpath community concerns in Lawrence. All feedback in relation to footpaths has been forwarded to the Road Safety Officer to be included in community submission.

In the draft ATS the following is proposed for Lawrence -

Regional Connectors – transport connections that join key regional centres

Action number	Area	Name	Prioritisation score	Overall Length (m)
R12	LAWRENCE	Clarence River Trail Regional Connector	0.5	27,884

Walking actions – improvements for walking and bike riding

Action number	Area	Name	Prioritisation score	Stage	Overall Length (m)	Costing estimate
W51	LAWRENCE	York Street Proposed Footpath	2.1	2	251	\$88,000
W56	LAWRENCE	High St Lawrence Proposed Footpath	2.0	3	347	\$120,000

W78	LAWRENCE	Lawrence Walking Loop Proposed Footpath	1.0	3	1,700	\$600,000
W82	LAWRENCE	Lawrence Public School Proposed Footpath	0.5	3	2,368	\$830,000
W83	LAWRENCE	Richmond St, Lawrence Proposed Footpath	0.4	3	2,629	\$920,000

The Draft ATS feedback link can be found [here](#).

The LCEDP can be found [here](#) and will be posted on Council’s website post adoption.

**Lawrence Community Economic Development Plan Submissions**

Name / Suburb	Feedback	Response
E Gillet, Lawrence 2460	Footpaths to walk dogs safely and walk with prams off the main road. Would be great to have a footpath between high street and past the post office to be able to get down to the park safely walking. A walking track like Townsend to Gulmarrad has somewhere in Lawrence would be fantastic!! Currently you have to walk on the road with a pram/dogs and can only walk in selective streets safely.	Feedback has been forwarded to the Road Safety Officer to be added to the community submissions for the draft ATS feedback. As outlined in this report, there is proposals for improvements to walking and bike riding trails in Lawrence listed above.
K Hanlon, Lawrence 2460	Footpaths, footpaths, footpaths!! Currently, the lack of footpaths in our area poses a significant safety concern for pedestrians, including children walking or riding their bikes to school and mothers pushing prams. The absence of dedicated pathways forces individuals to share the road with vehicular traffic, creating an environment that is not conducive to the safety of our residents. Moreover, the sides of the roads often go unkept, with long grass and uneven terrain, further exacerbating the hazards faced by pedestrians. This situation is particularly challenging for young students and parents navigating their way to school, as well as pushing prams or people walking their dogs. Encouraging walking and cycling has numerous benefits for mental and physical health, but the current conditions make it difficult for our community members to enjoy these activities safely. By implementing footpaths, we can create a safer and more accessible environment that promotes active transportation and contributes to the overall well-being of our residents.	Feedback has been forward to the Road Safety Officer to be added to the community submissions for the draft ATS feedback. As outlined in this report, there is proposals for improvements to walking and bike riding trails in Lawrence listed above.
N Key, Lawrence 2460	Have attended 2 meetings at Lawrence & to see forward movement on this Plan would be a giant step in the right direction. Lawrence desperately needs safe, walking & cycle paths for the residents & tourists/visitors. Tourism for our area is not well advertised, considering we have a very well known restaurant at our Tavern as well as Secret Lake Camping/RV site & an established Museum in a historic building. The proposed signage should be placed in an easily read way i.e. "landscape" style & not in the the proposed format. Who reads from the bottom up & has twist their neck to do so ??	Feedback has been forward to the Road Safety Officer to be added to the community submissions for the draft ATS feedback. As outlined in this report, there is proposals for improvements to

<p>K Vickery, Lawrence 2460</p>	<p>Footpaths / sealed roads / bike lines Anything to make it safer for children</p>	<p>walking and bike riding trails in Lawrence listed above. Feedback regarding Tourism has been forward for collation of community feedback for the Destination Management Plan. Feedback has been forward to the Road Safety Officer to be added to the community submissions for the draft ATS feedback. As outlined in this report, there is proposals for improvements to walking and bike riding trails in Lawrence.</p>
<p>M Ray, Lawrence 2460</p>	<p>Control the mosquitos, rats and vermon by treating or draining the water in the swamp or bird (sanctuary). Also cleaning up over -grown fire hazard behind the back of the school I think that council own part of undeveloped laneways behind High Street.</p>	<p>This information has been referred to the relevant area in the organisation.</p>
<p>J Glascott, Lawrence 2460</p>	<p>Enforcement of speed restrictions ie at the 50KPH road signs on Rutland St with radar speed sign and/or speed bump, and the same at the bridge heading towards Grafton.  Restoring to original condition by additional drainage/ tidal flow from the river to the lagoon to the west of Rutland St at the northern/ ferry end. The design of the drainage under Rutland St does not conform to Ausroads recommendations and as a result stagnant water is a potential health concern and may eventually result in a legal problem for Council.</p>	<p>Speed enforcement is not in council's scope of responsibility, for NSW Police.  This information has been referred to the relevant area in the organisation.</p>



J Morton,  
Lawrence  
2460

My submission is centric to this draft report's title of "Lawrence Community Economic Development Plan" as opposed to responding to this report's findings & recommendations. If a well targeted Economic Development Plan is to be funded when a strong development return, then I believe that this draft report is a positive start but still needs significant areas of investigation before final decisions are costed. Pages 5 & 6 of CVC's draft report is informative & essential reading. However, but not included are other ABS type figures for example employment/unemployment, household income, number of residents per household. CVC should also include its own statistical evidence including subdivision & building approvals, existing, permissible/ approved business developments & overnight tourism estimates etc. All these figures would be more meaningful if they were tabled in comparison to CVC averages or even better other NSW Northern River townships of a similar size and that are also non-coastal. I concur with much of this draft report's key findings especially:-

- The mighty Clarence River is a key natural asset & attraction to Lawrence. CVC's recent expenditure in improving the boat ramp is well justified.
- Lawrence Memorial Park with its boat ramp & parking are true community assets. They are well located and accessible with good visibility and accordingly valued by Lawrence locals & visitors alike.
- The ferry is also a notable point of difference for Lawrence's identity.
- Lawrence's museum, local hall, school & sporting facilities are also of importance but not as consequential in Lawrence's point of difference. Most other townships of similar populations would also boast same.

Part of this draft report's focus on CVC's proposed budget with the likes of pedestrian safety & access, roads and upgrades such as toilets is underwhelming. What percentage of CVC's economic development plan be allocated to these same priorities regardless of this draft report! Well targeted, new signage is supported but subject to considerable deliberation. Too often local signage erected by local councils, whilst well intended, fail to deliver money well spend (eg weathered, unreadable boards, not read by passerbys, not themed etc). There are also many good examples of successful signage such as many National Parkes & tourist routes around the Snowy Mountains. I support the draft report's proposal for more CVC funding on youth facilities but see that there are already ample area of existing shade shelters & greenspace that are readily accessible to all. Housing considerations are a key omission from this draft report and appears to be divorced from CVC's current efforts into improving the Clarence Valley's housing affordability, but which excludes Lawrence. As highlighted in this draft report, Lawrence has a high medium age. It is also evident that there is negligible *downsizing* options for Lawrences retired residents who wish to remain in Lawrence. There is also an obvious lack of medical and welfare services, even compared to other similar sized townships. Overnight tourist accommodation in Lawrence is negligible. Despite Lawrence's attributes it is not a well-regarded tourist destination, but this can be addressed with some targeted public and private spending. Despite this potential it is a most difficult ask, for example many years ago CVC commissioned an extensive report into increased water activities on the Clarence River but to limited benefit. Also, the nearby Everlasting Swamp does not currently present well compared to other National Parks, so whilst kayaking there might seem a good idea for ecotourism, I think that its uptake is currently low. I believe that camping and caravan sites like Maclean's Showground would be strongly patronised if offered in Lawrence. This in turn would lead to strong *multiplier effects* toward Lawrence's economic development. Glamping and ecotourism could also prove successful but more likely on a private enterprise basis.

Staff responded to Mr Morton with the details for the Employment Land Strategy and Housing Strategy. The CV Local Housing Strategy and Affordable Housing Policy have just been on public exhibition with extensive submissions. Feedback regarding Tourism has been forward for collation of community feedback for the Destination Management Plan.

I recently completed an extensive street survey comparing Lawrence’s retail floor space to the comparable townships of Ulmarra and Coraki. All three small townships are well inland from the Far North Coastline; all are on large rivers and similar commuting distances to secondary and tertiary retail townships/regional cities. I am offering to provide CVC with the summary of my street survey.

In the meantime it will not be surprising to this report’s authors that Lawrence’s retail floor space per capita is significantly below these two, comparable townships. In summary, I expect that the motivation of this draft report on Lawrence’s Community Economic Development stems from the lack of existing non-residential development when compared to similar sized, comparable townships. Lawrence is well within easy commuting distance to both Maclean & Grafton and therefore is somewhat a satellite township for Lawrence’s workforce (myself included). Additionally, Lawrence has a high proportion of retired/semi-retired, low income residents. Combined with low overnight tourism stays, these have led to Lawrence’s below average business development to date. Council’s draft report therefore is a most welcome initiative that needs to be given much more attention to detail prior to CVC’s commitment to its development plan.

R  
Haggart,  
Lawrence  
2460

Whom has Council appointed as a contact point for engagement on the urgent provision of priority paths and in particular the safe access for the community via Richmond / Grafton Street to the School, Lawrence General Store, Lawrence Memorial Park, Lawrence Public Hall and Lawrence Tavern.

Staff responded to Ron with the details for the draft ATS and his feedback has been forward to the Road Safety Officer to be added to the community submissions for the draft ATS feedback. Staff provided Roz with the Our Stories Museums of the Clarence Valley Report that was provided to CVC Museums in October 2023.

R Jones,  
Lawrence  
2460

I would like to expand on the information regarding Lawrence Museum. The Museum is owned and operated by the Lawrence Historical Society. The Society owns the heritage listed building, the site and the collection. We therefore pay all owner costs i.e. council rates, water, power, fire safety, insurance, building, public liability and volunteers insurance. These costs soar each year, last year being around \$12,000. We also maintain the building and the collection.

The aim of the Lawrence Historical Society is to provide a collection of local historical items and their stories. We aim to acquire, preserve and exhibit items that are significant for our community, for the enjoyment, education and enrichment of our community, visitors and future generations. It should be noted that the management and operation of the museum, whilst a key part of Society’s agenda, is not limited to this activity. The Society keeps records and archives’ of Lawrence cultural and social groups. The Society has gathered the necessary information to provide a historical tour of Lawrence and is keen to expand the community information regarding Lawrence Cemetery. Additional interested volunteers could see this eventuate. During the past four years we have published a number of books specifically about Lawrence, and it’s people.

The heritage listed Lawrence Museum building and site are well placed to provide the Clarence Valley with A Clarence River Maritime Museum. We already have a heritage listed flood boat, Gladstone skiff, and duck hunting dinghy. We have a few other significant vessels awaiting preservation.

During the previous 7 years, we have made many efforts to see this evolve, including offering to take the Cane Barge no 6 at Ferry Park for preservation, the tug ‘The Beardmore, and the Asby Ferry, when there was still sufficient of the ferry to restore.

Unfortunately , apart from one supportive staff member, others did not

Feedback regarding Tourism has been forward for collation of community feedback for the Destination Management Plan.

share our vision, or see the need to preserve this valuable local history. We made great efforts to negotiate with Council to dismantle the Pavilion at the Maclean Showground, when it was blown off its stumps, and Council decided not to rebuild with it. We would have used the pavilion as a base for the housing of significant Clarence Valley maritime craft. Unfortunately, the staff overseeing this project did not have the same enthusiasm for this project and many key features of the pavilion disappeared. However, much work has been completed over the past 7 years to restore the heritage listed building both inside and out. The male volunteers undertook a five year project to build a display 'shed', (all with volunteer labour and community and individual fundraising) to present Lawrence industrial, agricultural, social and cultural history.

Visitors remark that we have the equivalent of a Regional Museum. We have achieved much for the history of the community, but still have more projects to undertake. Our challenges today include the need to engage more volunteers and more funding just to pay the bills. We have held a number of fundraising events, and it is sad the funds raised go to pay the bills, instead of preserving our history. Local tourism is a key part of Councils' remit, we have developed a major attraction in Lawrence. Council financial support in the future (i.e. waiving rates) would be a great help in enabling the continued operation of this attraction.

The Lawrence Historical Society fully supports the move to increase footpaths in Lawrence, as submitted by other community members.

S  
Caswell,  
Lawrence  
2460

We moved to Lawrence from Brisbane in October 2022 and love the lifestyle. This was eight months after the floods and I was surprised that there were not many mosquitoes in and around Lawrence at that time. This summer however, it is not the case !!! If the council or state government have any regard for the health of locals and visitors, I suggest some sort of eradication program is required. My wife contracted Barmah Forest Virus many years ago and it still has an effect on her health. Mosquitoes are capable of transmitting many other dangerous viruses so eliminating these carriers should be the council's top priority. I trust you will consider this submission for the long-term benefit of Lawrence and districts.

This information has been referred to the relevant area in the organisation.

R Baxter,  
Lawrence  
2460

The proposed new gateway signage for small towns ( eg Lawrence) to be installed by Clarence Valley Council are poorly designed. Wording on its side or to be read from the bottom up is not conducive to safe driving or ease of reading the sign. Lawrence community groups and the Lawrence Museum are not happy with the design and request consultation. Rosemary Baxter. Member of Lawrence Historical (Museum) committee, President of the Lawrence Seniors Exercise Group Inc, Treasurer of the Lawrence area Over Fifties Group Inc.

Feedback noted and will be referred to relevant section re: signage strategy.

**BACKGROUND**

The LCEDP has been formulated to address the economic growth and development needs of the Lawrence community. This plan aligns with the overarching goals and strategies of Clarence Valley Council, specifically Ec4.1 of the Delivery Program, as well as Strategic Intent 3 Action B5 of the Clarence Riverway Masterplan II, which focuses on the ongoing design and planning for lower reaches riverfront towns.

Ec4.1 emphasizes the importance of promoting sustainable economic growth, job creation, and community development within the Clarence Valley region. This objective recognizes the significance of economic development in enhancing the overall quality of life for residents and supporting the long-term prosperity of communities. The LCEDP has been crafted in alignment with Ec4.1 to address the specific needs and potential of the Lawrence community.

The Clarence Riverway Masterplan II aims to enhance the natural, cultural, recreational, and economic values of the Clarence River and its surrounding areas. Action B5 specifically focuses on the ongoing design and planning for lower reaches Riverfront towns, including Lawrence. This action aims to identify opportunities for economic development, tourism promotion, and infrastructure improvement in riverfront

towns to create vibrant and sustainable communities. The LCEDP has been developed in accordance with this action to harness the potential of Lawrence's riverfront location and contribution to the overall objectives of the Clarence Riverway II plan.

The Draft LCEDP was endorsed to go on public exhibition at the 28 November 2023 Council Meeting, Item 07.23.220, and subject to there being no submissions that changed the intent of the plan at the conclusion of the exhibition period, it be adopted.

The draft LCEDP was on public exhibition from 07 December 2023 – 5 January 2024. Eleven submissions were received, and as feedback did not change the intent of the document no changes have been made.

## **COUNCIL IMPLICATIONS**

### **Budget/Financial**

Project scope and budget to be confirmed and considered for inclusion in the Open Spaces & Facilities 2024/2025 budget.

### **Asset Management**

N/A

### **Policy and Regulation**

N/A

### **Consultation**

The draft LCEDP was on public exhibition from 07 December 2023 – 5 January 2024. Eleven submissions were received, and feedback did not change the intent of the document, with no changes made.

### **Legal and Risk Management**

N/A

### **Climate Change**

N/A

**ITEM 07.24.041 DA FEES - YAEGL LOCAL ABORIGINAL LANDS COUNCIL**

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	Corporate & Community	
<b>Prepared by</b>	Project Officer, Lainie Edwards	
<b>Reviewed by</b>	Director Corporate & Community, Alex Moar	
<b>Attachments</b>	Nil	

**SUMMARY**

Yaegl LALC has requested a donation towards the DA/CC fees to construct a shed for storage space for use by the Yaegl LALC.

**OFFICER RECOMMENDATION**

That Council donate \$770.51 toward the total fee of \$2568.38, in accordance with Clause 8.1.2 of the CVC Donations Policy.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme Society  
Objective We will have proud and inviting communities

**KEY ISSUES**

The request to donate the Development Application and Construction Certificate fees for the Yaegl LALC Shed, is considered under Clause 8.1.2 of the Donation Policy as it is a building located on private property of a community based non-profit organisation.

The total DA/CC fees for the project are \$2,568.38. The total breakdown for the DA fee structure is as follows:

A. Construction of shed for storage purposes for Yaegl LALC – Hillcrest Road, Maclean	
DA Fee	\$786.63
DA Archiving Fees	\$41.60
Formatting Fees	\$83.65
CC Fees	\$936.00
CC Building Inspections	\$570.90
Occupation Certificate	\$108.00
CC Archiving Fee	\$41.60

Council will not donate any portion of these fees that relate to long service leave contributions, advertising or Plan First contributions. These fees will be required to be paid in full by the applicant in all circumstances.

**BACKGROUND**

Construction of a shed for storage purposes for Yaegl LALC at Hillcrest Road, Maclean. The fees are based on an estimated cost of works of \$116,106.00.

The officer's recommendation to donate \$770.51 (being 30% of the total cost) is compliant Clause 8.1.2 of the Policy.

**COUNCIL IMPLICATIONS****Budget/Financial**

Should Council approve this donation request, there are sufficient funds held in Cost Centre 4010, Sub Service 410 PJ# 997113-7069-2534.

<b>2023/24 Donations budget</b>		<b>\$104,000.00</b>
less Cultural and Sports trust donations	\$5,000.00	\$99,000
less: June - 07.23.103 Community Initiatives Round 1	\$68,536.56	\$30,463.44
less: DA fee donation request report November Meeting 2023	\$1,217.27	\$29,246.17
less: December - 07.23.217 Community Initiatives Round 2	\$22,510.78	\$6,735.39
	<b>Available funds remaining</b>	<b>\$6,735.39</b>

**Asset Management**

N/A

**Policy and Regulation**

Under Clause 8.1 Donations Policy, the reduction/waiving of Council DA Fees states that Council will consider applications to donate DA, CC archive and compliance and occupation certificate fees as follows:

8.1.1 in respect of buildings on Council owned land or Crown land by community based non-profit organisations –

8.1.1.1 where the facility is for the exclusive use of the organisation – 50% donation, and

8.1.1.2 where the facility is for the general public use – 100% donation.

8.1.2 in respect of buildings on private property by community based non-profit organisations – 30% donation, and

8.1.3 in respect of Rural Fire Service brigade sheds – 100% donation.

**Consultation**

N/A

**Legal and Risk Management**

N/A

**Climate Change**

N/A



**WORKS & CIVIL****ITEM 07.24.042 HOLIDAY PARK CONTRACT RENEWAL ALIGNMENT**

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	Works & Civil	
<b>Prepared by</b>	Coordinator Holiday Parks, James Burrell	
<b>Reviewed by</b>	Director Works & Civil, Jamie Fleeting	
<b>Attachments</b>	Nil	

**SUMMARY**

Clarence Valley Council currently operates five (5) Holiday Parks within the Clarence Valley. Four of these Parks are under a contractual agreement and have various renewal dates. The purpose of this report and recommendation is to align the dates of the four (4) Holiday Parks.

**OFFICER RECOMMENDATION**

That Council endorse that Iluka Riverside, Brooms Head, Minnie Water and Wooli Holiday Parks have their contractual agreement renewal dates aligned to July 2026.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme Leadership

Objective We will have an effective and efficient organisation

**KEY ISSUES**

At present the contract managed Holiday Parks have various contract renewal dates. These holidays parks include:

1. Iluka Riverside Holiday Park
2. Brooms Head Holiday Park
3. Minnie Water Holiday Park
4. Wooli Holiday Park

By aligning the contract dates to July 2026 we will have a contract structure that will be beneficial for council's operational efficiencies and provide better value for money for Clarence Valley Council.

The alignment of the contract dates will:

1. Streamline council's operational standards.
2. Increase efficiencies with all contractors.
3. Provide better value for money through improved resource allocation and reduced expenditure.
4. Alignment of compliance audits resulting in improved management practices.

**BACKGROUND**

The below table outlines the contractor renewal dates for each park and the contract states an option up to three years from date of renewal.

<b>Holiday Park</b>	<b>Contractor</b>	<b>Current Renewal date</b>
Iluka Riverside Holiday Park	JKT & Sons Pty Ltd	31/05/2024
Brooms Head Holiday Park	CM & PA Easdown Pty Ltd	7/09/2024
Minnie Water Holiday Park	Jarrah Management Pty Ltd	31/07/2024
Wooli Holiday Park	Jarrah Management Pty Ltd	31/07/2024

Noting that Council currently operates the Calypso Holiday Park, following the contractor exercising their right not to extend the management contract, and will continue this pilot until July 2026.

**COUNCIL IMPLICATIONS**

**Budget/Financial**

Financial efficiencies could be gained from an alignment of the holiday park contracts.

**Asset Management**

N/A

**Policy and Regulation**

N/A

**Consultation**

Council officers have notified all contract managers of Councils intension to align contracts.

**Legal and Risk Management**

Council sought legal advice from Burrige Harris and Flynn regarding the alignment of contracts.

**Climate Change**

N/A

**ITEM 07.24.043 OPEN COAST COASTAL MANAGEMENT PROGRAM - STAGE 3**

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	Works & Civil	
<b>Prepared by</b>	Senior Coast & Estuary Officer, Uriah Makings; Manager Technical Services, Greg Mashiah	
<b>Reviewed by</b>	Director Works & Civil, Jamie Fleeting	
<b>Attachments</b>	A. Open Coast Coastal Management Program Stage 3 Report (Separate Cover) <a href="#">⇒</a>	

**SUMMARY**

Council currently manages its coastline via numerous management plans that are of varying relevance and legal status. Under the *Coastal Management Act 2016*, existing certified Coastal Zone Management Plans expired on 31 December 2023. Council is required to have a certified Coastal Management Program (CMP) to seek financial assistance under the State Government's Coast and Estuary Program for implementing coastal management works. When certified, CMPs will be valid for ten (10) years.

Council has engaged consultants Hydrosphere Consulting to prepare Stages 2 to 4 of the Open Coast CMP. It is recommended that Council notes the Stage 3 (Options Identification and Evaluation) report, makes the report publicly available, publicly exhibit the report for 3 weeks and proceeds to Stage 4 of the CMP. The Stage 3 report was considered by the Coast and Estuary Management Committee (CEMC) at its meeting on 25 March 2024.

**OFFICER RECOMMENDATION**

That Council:

1. notes the Open Coast Coastal Management Program Stage 3 Report,
2. makes the Open Coast Coastal Management Program Stage 3 Report publicly available on Council's website and the Clarence Conversations project pages,
3. publicly exhibit the Open Coast Coastal Management Program Stage 3 Report for 3 weeks,
4. proceed with the Open Coast Coastal Management Program Stage 4.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme Environment

Objective We will preserve and enhance our natural environment

**KEY ISSUES**

Stage 3 of the CMP process involved identifying and evaluating coastal management actions required to address the coastal management issues, reduce exposure to coastal hazards, and to take advantage of opportunities in an integrated and strategic manner. A suite of management options has been recommended for inclusion in Stage 4 of the CMP to address the key threats and opportunities in the study area.

The study area for the Open Coast CMP includes the open beaches, foreshores and coastal waters of the Clarence Valley Local Government Area including Woody Head, Iluka, Yamba, Angourie, Brooms Head, Sandon, Minnie Water, Diggers Camp and Wooli.

The study area also includes the estuaries and lagoons of Lake Cakora, Lake Arragan, Sandon River and Wooli Wooli River including three mapped coastal management areas defined in the *Coastal Management Act 2016* (Coastal Use Area, Coastal Environment Area and Coastal Wetlands and Littoral Rainforest Area). The remainder of the Clarence Valley coastal management areas including the Clarence River estuary and tributaries will be considered in a separate CMP (Clarence River Estuary CMP).

Preparation of Stage 3 of the CMP involves:

- Review of potential strategic coastal management approaches.
- Identification of potential management options that support the CMP objectives across the whole study area.
- Identification of potential management options for each management zone (local options) and multicriteria assessment to identify recommended options considering the viability, feasibility, and acceptability of a range of options. The options assessment considers a range of coastal management options identified in previous management plans and studies covering parts of the CMP study area in addition to more recent best-practice approaches and stakeholder input identified during Stages 1 to 2. The development and assessment of options for each management zone considered the local coastal processes and hazards, values of each area and the extent of public and private development.
- Prioritisation of recommended options based on the outcomes of the threat and risk assessment undertaken in Stage 2.
- Development of adaptive management strategies based on the recommended sequence of options.
- Development of a draft implementation plan for inclusion in Stage 4 which identifies timing, responsibility and budgets of identified actions for the next 10 years.

A range of options is recommended including “wait and watch” actions such as beach monitoring, “low regrets” responses such as further research or revegetation, avoidance actions such as changes to planning controls, planning for change or adaptation responses such as planning to relocate or redevelop assets to consider the dynamic and ambulatory nature of the shoreline and active intervention options which seek to protect assets or accommodate change, while maintaining current systems and values.

Key major options recommended for inclusion in Stage 4 include:

- Review and update land use planning and development controls along the coastline.
- Develop long-term strategy for infrastructure on the Illuka peninsula and access arrangements to manage coastal hazards.
- Replace/ upgrade existing seawall at Yamba Main Beach.
- Additional geotechnical investigations and review of slope stability at Pilot Hill and implement remediation measures.
- Design and construct the extension of the existing pathway from Main Beach to Pilot Hill in consultation with traditional owners and other stakeholders.
- Sand nourishment of Whiting Beach.
- Develop long-term strategy for strategic retreat of infrastructure on Hickey Island.
- Undertake beach scraping at Brooms Head.
- Extend Brooms Head foreshore reserve revetment.
- Develop long term strategies for infrastructure and residential development at Brooms Head, Sandon Village and Wooli to manage coastal hazards.
- Implement Wooli beach management strategy.

Options recommended in the report require further consultation, consideration, and development before inclusion in the Stage 4 CMP. The recommended options will be presented to the community (drop-in sessions) and agency stakeholders and will also be available on Clarence Conversations for comment and discussion. Feedback from the Stage 3 consultation activities will be considered in the development of CMP actions. The CMP will include the priority options that are supported by stakeholders where funding is available to implement the actions.

The Open Coast CMP Stage 3 report was considered by the advisory CEMC at its meeting of 25 March 2024. A copy of the Committee’s draft minutes will be available at the Council meeting. The Stage 3 report is included in the attachments.

## **BACKGROUND**

As reported to Council’s 30 March 2021 meeting (Report 6c.21.034) the *Coastal Management Act, 2016* requires Council to develop a certified CMP if Council wishes to seek financial assistance under the State Government’s Coast and Estuary Program for implementing coastal management works. Once certified, CMPs remain valid for 10 years. There is a specified five (5) stage process for the preparation of a CMP, and the identification and evaluation of options is the third stage of the process:

CMP (Stage)	Outcome
Stage 1	Identify the scope of a CMP
Stage 2	Determine risks, vulnerabilities and opportunities
Stage 3	identify and evaluate options
Stage 4	Prepare, exhibit, finalise, certify and adopt the CMP

Stage 1 was completed with the adoption of the Scoping Report in March 2021. Stage 2 was completed with the adoption of the Stage 2 report in November 2023.

## COUNCIL IMPLICATIONS

### Budget/Financial

The Open Coast CMP is funded by a 2:1 grant under the Department of Climate Change, Energy, the Environment and Water's (DCCEEW) Coast and Estuary grants program.

### Asset Management

Stage 3 identifies management measures to address identified coastal hazard risks to Council assets over the next 100 years. Stage 3 also includes a draft implementation plan which identifies the implementation cost (both capital and ongoing), and how any recommended actions are proposing to be funded in Stage 4.

### Policy and Regulation

Coastal Management Act, 2016

State Environmental Planning Policy (Hazard and Resilience) 2021

NSW Coastal Management Manual parts A and B (the Manual).

### Consultation

State government agencies have been directly consulted during the development of Stage 3 including DCCEEW, Crown Lands, DPI – Fisheries (various sections including Solitary Island Marine Park) and National Parks and Wildlife Service. Once the report is adopted, further consultation will be undertaken with agencies, Yaegl RNTBC, coastal community groups consulted in Stage 1 and the broader community. Community consultation will include drop-in sessions and will also be available on Clarence Conversations for comment and discussion. Feedback from the consultation will be considered in development of the Stage 4 of the CMP.

It is proposed that the Stage 3 Open Coast CMP be exhibited for only three weeks so that any comments can be incorporated into the Stage 4 CMP. The CMP program is for the Stage 4 CMP to be considered by Council at its June meeting and then to be placed on public exhibition for 4 weeks. If the Stage 4 CMP is unable to be considered at Council's June meeting for exhibition it is unlikely the final CMP can be adopted for submission to the Minister for gazettal at the August Council meeting. As all Council committees cease at the Council election, and the new Coast and Estuary Committee will unlikely be appointed until at least February, this would delay consideration of the CMP for gazettal until March 2025 at the earliest. Council needs to have a gazetted CMP to gain funding assistance for projects identified in the CMP, so if gazettal was delayed Council may not receive grants for implementation of any identified projects in 2025/26.

DCCEEW has been consulted regarding the CMP timeline.

### Legal and Risk Management

Council has a statutory exemption from liability under Section 733(2) of the *Local Government Act, 1993* for advice given or works undertaken in good faith in the coastal zone:

*A council does not incur any liability in respect of—*

- (a) any advice furnished in good faith by the council relating to the likelihood of any land in the coastal zone being affected by a coastline hazard (as described in the coastal management manual under the Coastal Management Act 2016) or the nature or extent of any such hazard, or*
- (b) anything done or omitted to be done in good faith by the council in so far as it relates to the likelihood of land being so affected.*

Under Section 733(4), Council is taken to have acted in good faith if something was done or omitted to be done "substantially in accordance with the principles and mandatory requirements set out in the current coastal management manual under the *Coastal Management Act 2016*." The process followed in developing Stages 1-3 was in accordance with the coastal management manual.

**Climate Change**

Climate change is expected to exacerbate the impacts of coastal hazards into the future. Sea level rise is the key climate change factor which contributes to climate change related coastal hazards. Stage 3 considers options to address identified coastal climate change related risks within the study area.

## ITEM 07.24.044 MARINE ESTATE MANAGEMENT STRATEGY - COASTAL FLOODPLAIN DRAINAGE PROJECT

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	Works & Civil	
<b>Prepared by</b>	Manager Technical Services, Greg Mashiah	
<b>Reviewed by</b>	Director Works & Civil, Jamie Fleeting	
<b>Attachments</b>	A. Northern Rivers Joint Organisation of Councils response to MEMS report <a href="#">⇨</a> B. NSW Canegrowers Response to MEMS report <a href="#">⇨</a>	

### SUMMARY

Council resolved at its August 2023 meeting to make representation to the Minister for Agriculture seeking confirmation for timing of implementation of the recommendations contained in the Northern Rivers Agricultural Drainage review ("Culleton report"). On 20 December 2023 the NSW Government released the Culleton report, and concurrently released the Marine Estate Management Authority (MEMS) Coastal Floodplain Drainage Project Options Report ("MEMS report").

The MEMS report makes no reference to the recommendations of the Culleton report, and NSW Government agencies are only undertaking consultation on the MEMS report. Councils across the Northern Rivers have significant concerns with the recommendations in the MEMS report, and the Northern Rivers Joint Organisations of Councils (NRJO) has submitted a response to the MEMS report on behalf of its members requesting that consultation not proceed on the MEMS report and that consultation be undertaken on the Culleton Report

### OFFICER RECOMMENDATION

That Council:

1. notes the submission from the Northern Rivers Joint Organisation of Councils requesting that consultation on the Marine Estate Management Authority's Coastal Floodplain Drainage Project Options Report cease and instead consultation be undertaken on the Northern Rivers Agricultural Drainage Review.
2. notes the submission from the NSW Canegrowers Cooperative to NSW Government agencies on the Marine Estate Management Authority's Coastal Floodplain Drainage Project Options Report.
3. makes a submission to the Coastal Floodplain Drainage Project Options Report:
  - a. expressing disappointment that the findings and recommendations of the Northern Rivers Agricultural Drainage Review have not been considered in the Options Report,
  - b. requesting consultation on the Coastal Floodplain Drainage Project Options Report cease as it did not consider the Northern Rivers Agricultural Drainage Review, and
  - c. requesting that in accordance with previous Council resolution 07.23.149 of 22 August 2023, the recommendations of the Northern Rivers Agricultural Drainage Review be implemented.

### LINKAGE TO OUR COMMUNITY PLAN

Theme Infrastructure

Objective We will have communities that are well serviced with appropriate infrastructure

### KEY ISSUES

The Culleton report, which was prepared following extensive consultation with stakeholders and is dated 23 December 2022 but was not released to the public until 20 December 2023, can be accessed at <https://www.dpi.nsw.gov.au/agriculture/water/irrigation/northern-rivers-drainage-report>. This website page states "the NSW Government will consider this report as part of a broader Coastal Floodplain Drainage Option Report".

The MEMS Report is based on limited input from those most impacted by complex drainage regulation. Northern Rivers Local Government staff last met with the project team in September and October 2020. The issues identified at that time were collated in a document called "What we heard" released by the then Department of Planning and Environment in April 2022. There has been no further consultation since, and



Local Government staff have had no input on the options identified within the MEMS report. Despite the quote on the website for the Culleton Report indicating that it would be considered as part of the MEMS report (which was released in December 2023, or 12 months after the Culleton report was issued to government agencies), there is no reference in the MEMS report to the Culleton report or its recommendations. Consultation on the MEMS report opened on 19 February and closes on 21 April - <https://water.dpie.nsw.gov.au/our-work/floodplain-management/coastal-floodplain-drainage-project>.

Staff from all NRJO Councils were disappointed at the MEMS report recommendations and that it appears to have ignored the Culleton Report. Accordingly, the NRJO has submitted a joint response to the MEMS report (see attachment) requesting that consultation on the MEMS report cease and instead consultation be undertaken on the Culleton Report.

Similar views are held by other stakeholders, and a copy of the submission from the NSW Canegrowers is included in the attachments.

## BACKGROUND

At its meeting of 22 August 2023 Council resolved (Resolution 07.23.149) to:

*Make representation to the Minister for Agriculture, the Hon. Tara Moriarty MP, seeking confirmation for the timing of the implementation of the recommendations of the floodplain agricultural drainage review that informs the drainage reset program.*

## COUNCIL IMPLICATIONS

### Budget/Financial

Three options in the MEMS study do not alter the current regulatory process and therefore offer little benefit to Local Government, while three other options increase regulatory complexity with associated increases in costs of obtaining regulatory approval.

### Asset Management

N/A

### Policy and Regulation

Two of the options in the MEMS report “switch on” approvals under the Water Management Act which are not currently required.

### Consultation

The NRJO and Clarence Canegrowers submissions were discussed at the Floodplain Risk Management Committee meeting of 18 March and the Coast and Estuary Committee Meeting of 25 March.

### Legal and Risk Management

The increased regulatory requirements in three of the MEMS Report options will create increased compliance risk for Council.

### Climate Change

Finding 4 in the Culleton Report was:

*Some NSW regulatory officers consider that there is little point in undertaking any maintenance of drainage in the lowest lying areas across the Northern Rivers, given the prospect of rising sea levels. In the absence of declared policy changes to land use in such areas, this amounts to a ‘default’ position which adds to the drainage-related frustrations of councils, drainage unions and individual landholders.*

The Culleton Report’s Recommendation No 4 was:

*The NSW Government instruct Crown Lands, the Department of Planning and Environment (DPE), and the Department of Primary Industries-Fisheries (DPI-F) that until such time as it has adopted a change in land use policy and has a program in place to manage such a change, default positions are not to be adopted and that all applications for permits to undertake work on drainage must be considered on their merits.*

The MEMS report recommendations appear to be based around the ‘default position’.

**ITEM 07.24.045 RFT 22/77 ILLARWILL HALL ALTERATIONS AND ADDITIONS**

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	Works & Civil	
<b>Prepared by</b>	Project Management Officer, Ellie Young	
<b>Reviewed by</b>	Director Works & Civil, Jamie Fleeting	
<b>Attachments</b>	A. RFT22-77 Illarwill Hall Alterations and Additions - Tender Recommendation Report (Confidential)	

**SUMMARY**

The report presents the outcome of Tender that was called for the construction of alterations and additions at Illarwill Community Hall, located at 40 Clarence Street Illarwill. The Tender Evaluation Committee (TEC) considers, having regards to all the circumstances, that the tender from Ben McLennan Pty Ltd is the most advantageous for Council and recommends that this tender be accepted and seeks Council’s endorsement to award the contract.

**OFFICER RECOMMENDATION**

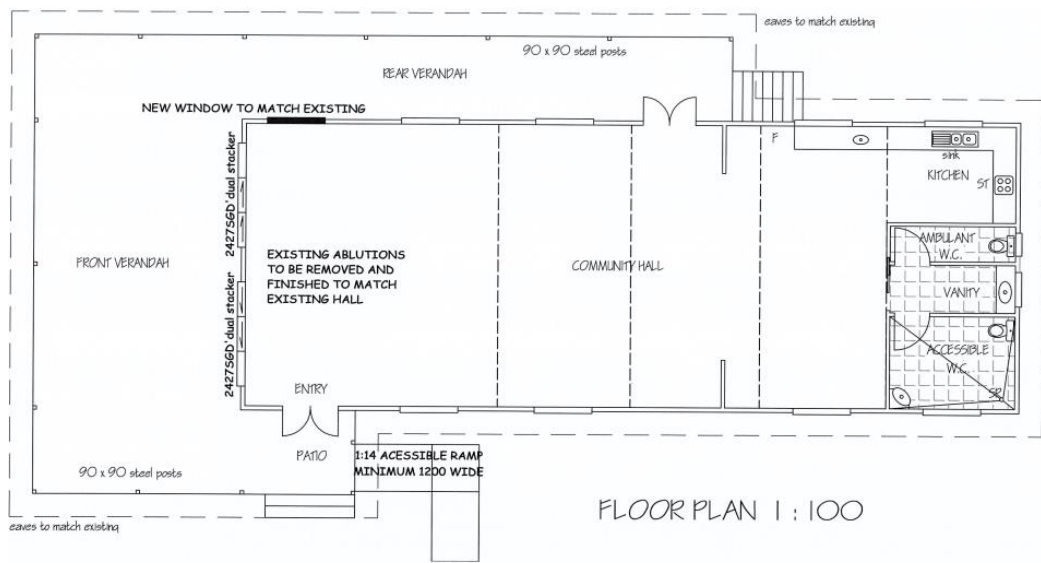
That Council accept the tender from Ben McLennan Constructions Pty Ltd for RFT22/77 (Alterations and additions to the Illarwill Community Hall (Lot 10, DP 246486) at a cost of \$506,610 (GST inclusive) to be funded from Community Halls - Bushfire Recovery Black Summer Project FP 570352.

**LINKAGE TO OUR COMMUNITY PLAN**

- Theme      Infrastructure
- Objective    We will have communities that are well serviced with appropriate infrastructure

**KEY ISSUES**

The project includes the construction of the Illarwill Hall refurbishment in line with the developed design documents, which are in accordance with stakeholder specifications. The hall is currently in poor condition and in need of repair. The hall is under utilised for community events due to the poor condition and layout of the building. The project intends to alter the internal fitout of the hall to utilise the outlook of the hall over the river. It includes accessibility improvements to meet BCA requirements and improve inclusiveness in the community. The project will provide the community with a space to utilise as a refuge during natural disasters and a place for community disaster recovery.



The proposed project intends to meet the objectives of Council’s asset management plan.

Two (2) tenders were received in response to the Request for Tender process, the tenderers being listed in alphabetical order in the following table and throughout report:

Tenderer	ABN	Address
Ben McLennan Constructions Pty Ltd	41 627 237 236	377 Colletts Island Rd, Ulmarra, NSW, 2462
Down River Building Group Pty T/A Down River Building	75 650 572 295	18 North Street, Woombah, NSW, 2469

The Tender Evaluation Committee (TEC) evaluated the submissions against the mandatory participation criteria to ensure compliance with the Tender Evaluation Plan (TEP). The two (2) tenders received were deemed compliant and were processed through to the evaluation criteria assessment.

The TEC reviewed the two (2) tenders against the non-price (technical) criteria independently and then as a group to form a consensus score. Ben McLennan Constructions Pty Ltd and Down River Group Pty Ltd were comparable for the non-price criteria. Both companies provided excellent methodology and included a high level of local content. The TEC then reviewed the two (2) tenders against the price (commercial) with Ben McLennan Constructions Pty Ltd being ranked first.

After consideration of the tender submissions, scoring, and project reference checks, the TEC considered the offer from Ben McLennan Constructions Pty Ltd as the most advantageous to council and recommends this tender be accepted.

Details of the TEC's assessment are included in the confidential attachment

## BACKGROUND

The Ilarwill Community Hall is located at the Bushfire Brigade Reserve and Community Hall Ilarwill. The facility services the community for social gatherings and functions under the management of the Section 355 Committee. The hall is currently in poor condition and contains a high level of asbestos and hazardous materials. Council was successful in an application for funding through the Black Summer Bushfire Resilience program to undertake alterations and additions.

The proposed project intends to retain the existing footprint of the building and will have simplistic floorplan with an open hall area and amenities. The project will include hazardous material removal, demolition, relocation of services and internal amenities, recladding, new roof line, kitchen refurbishment and construction of an external deck and access ramp.

The tender documentation was developed with tenders called Friday, 23 February 2024, and closed on Friday, 15 March 2024.

## COUNCIL IMPLICATIONS

### Budget/Financial

Council successfully applied for grant funding through the Black Summer Bushfire Resilience Program. The funding amount is \$4,272,698.70 with an original allocation of \$360,500 nominated to the Ilarwill Hall redevelopment. The grant has been extended for completion by March 2025.

Following a Request for Quotation (RFQ) process, it was identified that the cost was higher than the initial allocation, however funds have been reallocated from within the program fund due to savings from completed projects that have also been delivered under the Black Summer Bushfire Resilience Program. Therefore, the recommended tenderer falls within the revised allocation of \$500,000 (ex GST).

The upgrades will ensure that ongoing maintenance costs are reduced. Materials nominated within the specifications of contract provide best value for money over the life of the asset. Following completion of contract, Council's O&M budgets will sustain the ongoing operations and maintenance of the facility and capital allocations should be made in line with the Asset Management Plan.

### Asset Management

The proposed Ilarwill Hall Refurbishment is an upgrade to the existing facility. Some asset components will be retained and refurbished where appropriate in accordance with the asset life. Other asset components will be replaced with new.

### Policy and Legislation

The tendering process followed is consistent with the requirement of the Local Government Act and Regulation and Council's Sustainable Procurement Policy – Supporting Local Business.

In accordance with Council's Sustainable Procurement Policy the following processes were undertaken:

- Local suppliers, contractors and/or consultants were notified through local advertising.
- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.
- The tender specification requested tenderers to identify the local suppliers/contractors that would be involved in delivering/constructing the project and the tender assessment included a 15% weighting of the total tender score for local supplier content. The Tender Evaluation Plan contains details of the local supplier content for each tenderer.

### Consultation

Consultation with the Ilarwill Hall Section 355 Committee has been ongoing.

### Legal and Risk Management

The Ilarwill Hall is located on Council community land within planning zone R2 low density residential. There is no impact on Native Title.

Two (2) submissions were received in response to the Request for Tender process, the Company Partners and Directors are as follows:

Tenderer	ABN	Name of Partners and Directors	Position
Ben McLennan Constructions Pty Ltd	41 627 237 236	Ben McLennan	Owner
Down River Building Group Pty Ltd T/A Down River Building	75 650 572 295	Kent & Julie Hermansen	Owner

### Climate Change

The provision of any new asset results in resource consumption and emission production factors that contribute to climate change. To minimise the impact the materials used will contain a high content of material that can be recycled at the end of its useful life and all waste material able to be recycled.

**ITEM 07.24.046 RFT 22/58 MACLEAN 4.5ML ROOF REPLACEMENT**

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	Works & Civil	
<b>Prepared by</b>	Senior Engineer Officer, Jacob Fischer	
<b>Reviewed by</b>	Director Works & Civil, Jamie Fleeting	
<b>Attachments</b>	A. RFT 22/58 Maclean Reservoir Roof Replacement (Confidential)	

**SUMMARY**

Council called tenders for the replacement of the Maclean 4.5 Mega Litre (ML) water reservoir roof that closed on the 22 February 2024. Three complying tenders were received. The Tender Evaluation Committee (TEC) considers, having regards to all the circumstances, that the tender from Wicks and Parker Pty Ltd is the most advantageous for Council and recommends that this tender be accepted.

**OFFICER RECOMMENDATION**

That Council accept the tender from Wicks & Parker Engineering Pty Ltd for RFT22/58 (Maclean 4.5 ML Roof Replacement) at a cost of \$329,413.25 (Incl GST) to be funded from FP905232 (Maclean 4.5ML Roof Replacement).

**LINKAGE TO OUR COMMUNITY PLAN**

Theme Infrastructure

Objective We will have communities that are well serviced with appropriate infrastructure

**KEY ISSUES**

At the closing date and time Council received three tenders:

<b>Tenderer</b>	<b>ABN</b>	<b>Address</b>
Frontier Assembly Pty Ltd	42 644 771 764	65 Fairy Hill School Road, Fairy Hill NSW 2470
Reeman Constructions Pty Ltd	18 622 059 170	15 Holden Road, Rainbow Flat, 2430 NSW
Wicks and Parker Pty Ltd	51 634 891 19	112 Queen Street, Grafton, 2460

The Tender Evaluation Committee (TEC) comprised water cycle staff and Tenders were assessed using a weighting of 60% price and 40% non price. Three (3) tenders were received by the closing date and time.

**BACKGROUND**

The Maclean 4.5ML reservoir is a water reservoir within Council's water reticulation network, this reservoir was constructed in the 1960s. The roof of the reservoir has reached the end of its useful life and has begun to degrade, with inspections showing small pinprick holes, rusting in the roof as well as degradation to the bird netting surrounding the reservoir. The roof and netting provide protection from pollution contaminants and animals that would affect the water quality.

**COUNCIL IMPLICATIONS****Budget/Financial**

The 2023/24 budget for FP905232 (Maclean 4.5ML Roof Replacement) is \$300,000 with the recommended tender within existing budgets.

**Asset Management**

This project renews an asset that is nearing the end of its life.

**Policy and Legislation**

The tendering process followed is consistent with the requirement of the Local Government Act and Regulation and Council's Sustainable Procurement Policy – Supporting Local Business. In accordance with Council's Sustainable Procurement Policy the following processes were undertaken:

- Tender specifications were structured so local suppliers and/or contractors were not excluded from being the prime supplier/contractor.

**Consultation**

N/A

**Legal and Risk Management**

Company directors of the three Tenderers are included in the TEC report.

**Climate Change**

N/A

**ITEM 07.24.047 RFT 22/67 SPORTS FIELD DRAINAGE AND STORMWATER DESIGN AND CONSTRUCT**

<b>Meeting</b>	Council	26 March 2024
<b>Directorate</b>	Works & Civil	
<b>Prepared by</b>	Project Manager, Dena Colefax	
<b>Reviewed by</b>	Director Works & Civil, Jamie Fleeting	
<b>Attachments</b>	A. RFT22/67 Sports Field Drainage and Stormwater - Tender Recommendation Report (Confidential)	

**SUMMARY**

Council secured funding under the NSW Government's Sports Priority Needs Program (SPNP) for upgrades to the field drainage and stormwater design at the following locations:

- Rushforth Park
- Barnier Park
- Yamba Sports Complex, Rugby League field
- Hawthorne Park Arena One

These projects are intended to improve the flood resilience of these active recreation facilities.

**OFFICER RECOMMENDATION**

That Council:

1. decline to accept the tender offers for RFT22/67 Sports Field Drainage and Stormwater Design and Construction tender because the responses exceeded the grant funding available to deliver the program of works.
2. not invite fresh tenders because the time to undertake another tender process on a modified scope will not be able to be undertaken in the grant delivery timeframe.
3. delegate to the General Manager to enter into negotiations with one or more of the tenderers with a view to entering into a contract on terms that are appropriate in relation to the subject matter of the tender, noting the project scope will be adjusted to ensure the grant funding is not exceeded.
4. in order to meet the grant delivery timeframe delegate to the General Manager the authority to enter any contract as negotiated for delivery of works so as not to cause further delay to program delivery, subject to the total cost of the engagement not exceeding the available grant funding.
5. the outcome of the tender process be reported back to Council.

**LINKAGE TO OUR COMMUNITY PLAN**

Theme Infrastructure

Objective We will have communities that are well serviced with appropriate infrastructure

**KEY ISSUES**

The Sports Priority Needs Program (SPNP) grant funding was intended to repair, reconstruct and build flood resilience into sport facilities.

Clarence Valley Council successfully secured funding for the following four (4) sports field locations:

- Rushforth Park Sportsground
- Barnier Park Sportsground
- Yamba Sports Complex, Rugby League Field
- Hawthorne Park Arena One and Drainage Improvements

Delivery of the program has been delayed beyond the original program timeframe due to the difficulty experienced by staff in attracting contractor interest to deliver the program of works within the allocated budget and timeframe provided for under the grant.



## BACKGROUND

SPNP is a \$12 million program managed by the NSW Government Office of Sport which was made available to the eight Local Government Areas which experienced significant impacts in the February – March 2022 flood event. The four sites identified by Clarence Valley Council for this funding were determined to be best suited to benefit from the proposed funding.

The submission for funding was submitted in September 2022 and announced on 11 November 2022. The works to be delivered under the program were due to be constructed by 31 May 2024.

Council staff have prepared a variation request to the office of Sport to extend the SPNP grant delivery dates to the 31 December 2024. The outcome of this variation is not yet known.

This submission will include a request to remove the \$210,000 of funding agreed to under the original agreement as co-funds supplied by CVC for inclusion of road repairs considered by the funding body as outside of the funding agreement guidelines. It is CVC's position that it should not be included in the program delivery agreement. This will then be assessed by the Office of Sport and the Treasury before a response is provided.

Two previous attempts to attract consultants for design of the project were unsuccessful, and therefore the project was packaged as a design and construction tender.

### Tenders received

Two (2) conforming tenders were received in response to the Request for Tender process. The tenderers are listed in alphabetical order in the table below:

Tenderers	ABN	Address
McMahons Pty Ltd	27 077 932 444	9 Holland Drive Melton Victoria 3337
Synergy Resource Management Pty Ltd	57 120 757 299	Suite 2, Level 2, 64 Marine Parade Southport Qld 4215

The evaluation of the tenderers considered experience, construction methodology, program capacity, qualifications, competence, or local content, however the tendered price in both submissions significantly exceeded the available budget.

The Tender Evaluation Committee (TEC) has provided recommendations for the potential negotiations with one or more tenderers to attempt to reach a suitable outcome for delivery of the project.

## COUNCIL IMPLICATIONS

### Budget/Financial

The available budget for this tender is \$1,142,212 across the following projects PJ540125, PJ540123, PJ540126, and PJ540124. The tender prices received are significantly higher than the budget and therefore there needs to be negotiation on the scope of works and/or the methodology and sequencing of works proposed by tenderers, or an allocation of additional budget.

### Asset Management

Rushforth Park Sportsground, Barnier Park Sportsground, Hawthorne Park and Hawthorne Park are Council owned assets that are managed through the *Plan of Management, Community Land Crown Reserves and Other Public Spaces 2023*.

Yamba Sports Complex, Rugby League Field is on Crown Land leased to Clarence Valley Council that previously fell under the *Yamba Sporting Complex Plan of Management 2003*. The site will be managed under the newly prepared *Ngayundi Yamba Sports Complex Plan of Management 2021 Draft* that is yet to be finalised. In the interim Council is required to manage all Crown Land under its control as if it was classified as community land under the *Local Government Act 1993 (NSW)*.

Appropriate development consent for all sites is considered an exempt development.

**Policy and Legislation**

The tendering process followed is consistent with the requirement of the *Local Government Act 1993* (NSW) s 55 and *Local Government (General) Regulation 2021* (NSW) s 163 and Council's Sustainable Procurement Policy – Supporting Local Business.

In accordance with Council's Sustainable Procurement Policy the following processes were undertaken:

- The tender specification requested tenderers to identify the local suppliers/contractors that would be involved in delivering/constructing the project and the tender assessment included a 10% weighting of the total tender score for local supplier content. The Tender Evaluation Plan contains details of the local supplier content for each tenderer.

**Consultation**

The tender evaluation committee have undertaken internal consultation with Open Spaces and Facilities staff members including, managers, coordinators and asset maintenance staff to include all stakeholders in the decision-making process.

**Legal and Risk Management**

There were two (2) tenders received in response for the Request for Tender process and the Company Directors are as follows:

Tenderers	Name of Partners and Directors
McMahons Pty Ltd	Bernie McMahon, Director Robert McMahon, Director
Synergy Resource Management Pty Ltd	Matt Sedon, Managing Director

**Climate Change**

N/A

**8. CONFIDENTIAL BUSINESS**

**9. QUESTIONS WITH NOTICE**

Nil

**10. LATE ITEMS OF BUSINESS AND MATTERS ARISING**

**11. CLOSE OF ORDINARY MEETING**